

Figure 3 to Sec. 575.301
Sample Star Rating Graphic for Sec. 575.301



Figure 4 to Sec. 575.301
Sample Safety Concern Graphic for Sec. 575.301



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Nicole R. Nason,
Administrator.

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AU32

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Rota Bridled White-Eye (*Zosterops rotensis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are designating critical habitat for the Rota Bridled White-eye (*Zosterops rotensis*) pursuant to the Endangered Species Act of 1973, as amended (Act). In total, approximately 3,958 acres (ac) (1,602 hectares (ha)) fall within the boundaries of the critical habitat designation on the Island of Rota, Commonwealth of the Northern Mariana Islands (CNMI).

DATES: This rule becomes effective on October 12, 2006.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, will be available for public inspection, by appointment, during normal business hours, at the Pacific Islands Fish and Wildlife Office,

U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, HI 96850 (telephone 808-792-9400). The final rule and economic analysis will also be available on the Internet at <http://www.fws.gov/pacificislands>.

FOR FURTHER INFORMATION CONTACT:

Patrick Leonard, Field Supervisor, Pacific Islands Fish and Wildlife Office, at the above address (telephone 808-792-9400; facsimile 808-792-9581). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800-877-8339, 7 days a week and 24 hours a day.

SUPPLEMENTARY INFORMATION:

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under the Act section 4(b)(2), there are significant limitations on the regulatory effect of designation under the Act section 7(a)(2). In brief, (1) Designation provides additional protection to habitat only where there is a Federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not

prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, only 475 species, or 36 percent of the 1,310 listed species in the U.S. under the jurisdiction of the Service, have designated critical habitat. We address the habitat needs of all 1,310 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative, nonregulatory efforts with private landowners. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

In considering exclusions of areas originally proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force v. United States Fish and Wildlife Service*, 378 F.3d 1059 (9th Cir 2004). In that case, the Ninth Circuit invalidated the Service's regulation defining "destruction or adverse modification of critical habitat." In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas in this final designation. The Service will carefully

manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a

defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA; U.S.C. 4371 *et seq.*). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

Our intent is to discuss only topics directly relevant to the designation of critical habitat in this final rule. For more information on the Rota bridled white-eye, refer to the final listing rule published in the **Federal Register** on January 22, 2004 (69 FR 3022).

Previous Federal Actions

On September 14, 2005, we published a proposed rule to designate critical habitat for the Rota bridled white-eye (70 FR 54335). The public comment period was open for 60 days until November 14, 2005. On May 4, 2006, we published a notice in the **Federal Register** and issued a press release announcing the reopening of the public comment period and the availability of the draft economic analysis for the proposed designation of critical habitat for the Rota bridled white-eye (71 FR 26315). The comment period was open for an additional 30 days until June 5, 2006. For more information on previous Federal actions concerning the Rota bridled white-eye, refer to the final rule listing this species as endangered, published in the **Federal Register** on January 22, 2004 (69 FR 3022), and the proposed critical habitat rule published in the **Federal Register** on September 14, 2005 (70 FR 54335).

Summary of Comments and Recommendations

We requested written comments from the public on the proposed designation

of critical habitat for the Rota bridled white-eye that was published on September 14, 2005 (70 FR 54335). We also contacted appropriate Federal, Commonwealth, and local agencies; scientific organizations; and other interested parties and invited them to comment on the proposed rule.

We received a total of 14 written comments during the 2 comment periods on the proposal published on September 14, 2005 (70 FR 54335), and the draft economic analysis published on May 4, 2006 (71 FR 26315). These included responses from eight designated peer reviewers, four individuals or organizations (one organization provided comments during both comment periods), and one from the CNMI Division of Fish and Wildlife. We did not receive comments from any Federal agencies. Ten commenters supported the proposed designation, two commenters provided information and expressed neither opposition nor support for the proposed designation, and one expressed concern regarding the size of the proposed designation. We reviewed all comments received for substantive issues and new information regarding critical habitat for the Rota bridled white-eye. Substantive comments were grouped into three general issues, are addressed in the following summary, and were incorporated into this final rule as appropriate. We did not receive any requests for a public hearing.

Peer Review

In accordance with our policy published on July 1, 1994 (59 FR 34270), we solicited expert opinions from 11 knowledgeable individuals with scientific expertise that included familiarity with the species, the geographic region in which the species occurs, and conservation biology principles. We received responses from eight of the peer reviewers. The peer reviewers generally concurred with our methods and conclusions and provided additional information and suggestions to improve the final critical habitat rule. Peer reviewer comments are addressed in the following summary and incorporated into the final rule as appropriate.

Comments Related to Life History, Habitat Characteristics, and Ecological Considerations

1. *Comment:* Three peer reviewers stated that there is limited evidence to support the statement that black drongo and rat predation are important threats to the Rota bridled white-eye. One peer reviewer also stated that there is limited evidence to indicate that habitat

fragmentation is a threat to the Rota bridled white-eye.

Our Response: We agree that the available information on the threats to the Rota bridled white-eye is limited and that there is not strong evidence to indicate whether rat and black drongo predation and habitat fragmentation are important threats to the Rota bridled white-eye. However, introduced species and habitat fragmentation have both been documented to be important threats to many species from the islands in the Pacific. In the recovery outline (USFWS 2004, p. 11) and draft recovery plan (USFWS 2006, p. 33–34) for the Rota bridled white-eye, we recommend that additional research be conducted on these potential threats and that appropriate management actions be undertaken based on the results of this research.

2. *Comment:* Three peer reviewers stated that on-the-ground conservation is needed, in addition to critical habitat designation, to conserve the Rota bridled white-eye.

Our Response: We agree that on-the-ground management of the threats and resource needs of the species is necessary for the long-term conservation of the species. Management activities are described in the recovery outline (USFWS 2004, p. 11) and draft recovery plan (USFWS 2006, pp. 39–51) for the species.

Comments Related to Critical Habitat, Primary Constituent Elements, and Methodology

3. *Comment:* One peer reviewer stated that the population recovery benchmark (16,000 Rota bridled white-eyes) may not be achievable because the native forest canopy and available acreage have decreased.

Our Response: We agree that the quality of Rota bridled white-eye habitat has diminished over the last several decades and currently may not be sufficient to support a population of 16,000 Rota bridled white-eyes. However, the amount of critical habitat designated was based on the assumption that it could support a population of 16,000 Rota bridled white-eyes with appropriate management activities, such as restoration of degraded forest areas (see “Special Management Considerations or Protections” section for details).

4. *Comment:* One peer reviewer noted that we did not utilize Rota bridled white-eye densities reported by Engbring *et al.* (1986, p. 44) to help identify the amount of land to designate as critical habitat and that some unanalyzed survey data collected by the CNMI in 1992 and 1993 may also be

available for estimating white-eye densities.

Our Response: We considered the density estimate provided by Engbring *et al.* (1986, p. 44) in the preparation of the proposed rule, but during development of the final rule, we determined that survey work by Fancy and Snetsinger (2001, p. 276) and Amidon (2000, p. 68) was the best available information for this purpose. The density estimate calculated by Engbring *et al.* (1986, p. 44) was for a large portion of Rota that included a wide variety of habitats of varying quality. We believe this density estimate is too broad and does not provide an accurate estimate of the number of Rota bridled white-eyes a forested area can support if the threats to the species are controlled.

We also reviewed the CNMI reports by Lusk (1993, pp. 235–236) and Worthington and Taisacan (1994, pp. 17–18) on Rota bridled white-eye research during the 2 years identified by the peer reviewer. Descriptions of the survey methodology in these two reports indicated that surveys for Rota bridled white-eyes were conducted along two transects. However, Rota bridled white-eye densities were not calculated along these transects and we were unable to obtain density data from these surveys. Therefore, we could not consider this information in our analysis.

5. *Comment:* One peer reviewer suggested that the designation of critical habitat for the Rota bridled white-eye and Mariana crow will lead to local hostility toward both species and their conservation. One commenter suggested that there is no basis for the concern described in the Draft Economic Analysis that designating critical habitat for the Rota bridled white-eye might result in harm to the species due to negative public sentiment.

Our Response: We acknowledge that, despite the Service’s outreach activities, considerable apprehension remains about the impacts of critical habitat on land use on Rota. Nevertheless, without documentation that the designation of critical habitat would increase the threat to the Rota bridled white-eye or Mariana crow, we have no basis for changing our prudence determination. The basis for disclosing negative public sentiment and its possible effect on the Rota bridled white-eye is presented in Section 1.2.3.3 of the Draft Economic Analysis (p. 1–7). Public sentiment was offered in meetings with various agencies, as cited in the Draft Economic Analysis, and determined to be information for additional consideration and appropriately labeled as such. This

information is not qualitatively or quantitatively defined in the economic impact section in Section 3.

6. *Comment:* One peer reviewer suggested that non-forested areas may also need to be considered for designation due to loss and degradation of native forest on the Sabana.

Our Response: We agree that reforestation may be an important tool in the conservation of the Rota bridled white-eye. However, because these non-forested areas were not occupied by Rota bridled white-eye at the time of listing, do not contain the primary constituent elements, and are not essential for the conservation of the white-eye, we did not consider these areas for designation.

7. *Comment:* One peer reviewer suggested that additional information be provided with Map 1 to explain why some areas surrounded by critical habitat were not designated.

Our Response: We only designated areas that contain the primary constituent elements for the Rota bridled white-eye. Many of the large areas not designated that lie within the outer boundary of the designation are composed of open fields or agricultural plots that do not contain the primary constituent elements needed for the survival of the species.

8. *Comment:* Two peer reviewers stated that the current designation was based on the best available information but suggested that as additional information is obtained about the habitat requirements of the Rota bridled white-eye it may become necessary to modify the designation in the future.

Our Response: If new information becomes available about the habitat requirements of the Rota bridled white-eye which indicates that the designation is not appropriate for the conservation of this species, we will consider amending this critical habitat rule as available resources allow.

9. *Comment:* Three commenters suggested that the forested areas along the rivers in the upper reaches of the Talakhaya region be added to the designation because Rota bridled white-eyes and their primary constituent elements are currently found in these areas.

Our Response: We agree that some of the forested areas in the Talakhaya region are utilized by Rota bridled white-eyes and may contain some of their primary constituent elements. However, since the first island-wide forest bird survey in 1982, Rota bridled white-eyes have been recorded primarily above 490 feet (ft; 150 meters (m)) elevation (Engbring *et al.* 1986, p. 77; Amidon 2000, p. 38; Fancy and

Snetsinger 2001, p. 278). Therefore, we utilized this elevation contour as a criterion for delimiting critical habitat and listed forests above this elevation contour as a primary constituent element for this species (see "Primary Constituent Elements" for details). The majority of the forested areas along the rivers in the Talakhaya region are below this elevation so they were not considered in the designation. We did, however, include Talakhaya region forested areas above this elevation in the proposal and final designation. In addition, one of our selection criteria for the designation was sufficiently forested areas to meet the recovery goal of 16,000 individuals for the species (see the "Criteria Used to Identify Critical Habitat" section for details). Because sufficiently forested areas above 490 ft (150 m) elevation (enough to attain the recovery goal) were available for the designation, we did not include forested areas below this elevation contour.

10. *Comment:* Two peer reviewers and one commenter stated that the section of the proposed rule titled "Designation of Critical Habitat Provides Little Additional Benefit to the Species" is political, editorializing, and out of place in a proposal.

Our Response: The section referenced by the peer reviewers and commenter is intended to be a general statement regarding our position on the designation of critical habitat. As discussed in the preamble of this and other critical habitat designation rules, we believe that, in most cases, conservation mechanisms provided through section 7, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative programs with private and public landowners provide greater incentives and conservation benefits than the designation of critical habitat.

11. *Comment:* One commenter stated the Service's complaints regarding accelerated schedules of court-ordered designations in the section of the rule titled "Designation of Critical Habitat Provides Little Additional Benefit to the Species" does not apply to the Rota bridled white-eye proposal because the Service agreed to the timeline in the settlement agreement.

Our Response: As stated above, the section referenced by the commenter is intended to be a general statement regarding our position on the designation of critical habitat. For some designations, the schedules for completing these rules are not necessarily accelerated.

Comments Related to Economic Analysis and Other Relevant Impacts

1. *Comment:* One commenter stated that the draft wrongly attributed costs related to restrictions on agricultural homestead development to critical habitat designation, and that other factors are the causes.

Our Response: The moratorium associated with the agricultural homestead program described in the draft Economic Analysis is a moratorium on new agricultural homestead applications, not on the development of agricultural homesteads. A backlog on existing applications exists, and there is no moratorium on development associated with the existing applications. The draft Economic Analysis does not assume that the existing moratorium on new applications is attributable to critical habitat designation for the Rota bridled white-eye. The analysis does identify a percentage of land within the critical habitat unit that has agricultural homestead development potential, and identifies the cost associated with the loss of that development potential. To estimate a range of costs, we presumed that the current moratorium on new applications would be lifted because of the importance of land to people of Northern Mariana Islands descent, and the lack of information to suggest that the lifting of the moratorium would be unlikely.

2. *Comment:* Three commenters stated that the analysis of lost development value of critical habitat land in the draft economic analysis does not accurately reflect potential development on Rota in the next 20 years.

Our Response: As described in Section 3.2.2.3 of the Draft Economic Analysis (pp. 3–15), the analysis does not presume the potentially impacted acres will be developed in the next 20 years, but assumes that value is lost associated with the lost option for development. The estimated value of a parcel of land implicitly incorporates its potential for future development. The methods and data used to estimate the reduction in land value associated with restrictions on development were peer reviewed.

3. *Comment:* The CNMI Division of Fish and Wildlife stated that the economic impact of the critical habitat designation of the Mariana Crow on Rota was far less than that of the Rota bridled white-eye, and another commenter stated that the draft economic analysis incorrectly lumps the costs associated with critical habitat designation with costs already triggered by the listing of the species.

Our Response: The economic analysis estimates the total cost of species conservation activities without subtracting the impact of pre-existing baseline regulations (*i.e.*, the cost estimates are fully co-extensive). In 2001, the U.S. 10th Circuit Court of Appeals instructed the Service to conduct a full analysis of all of the economic impacts of proposed critical habitat designation, regardless of whether those impacts are attributable co-extensively to other causes (*New Mexico Cattle Growers Ass'n v. USFWS*, 248 F.3d 1277 (10th Cir. 2001)). The economic analysis complies with direction from the U.S. 10th Circuit Court of Appeals. This analysis identifies those economic activities believed to most likely threaten the Rota white-eye and its habitat and, where possible, quantifies the economic impact to avoid, mitigate, or compensate for such threats within the boundaries of the critical habitat designation. Due to the difficulty in making a credible distinction between listing and critical habitat effects within critical habitat boundaries, this analysis considers all future conservation-related impacts to be coextensive with the designation.

4. *Comment:* One commenter stated that the draft economic analysis failed to analyze the benefits of critical habitat designation.

Our Response: Section 4(b)(2) of the Act requires the Secretary to designate critical habitat based on the best scientific data available after taking into consideration the economic impact, impact on national security, and any other relevant impact of specifying any particular area as critical habitat. The Service's approach for estimating economic impacts includes both economic efficiency and distributional effects. The measurement of economic efficiency is based on the concept of opportunity costs, which reflect the value of goods and services foregone in order to comply with the effects of the designation (such as lost economic opportunity associated with restrictions on land use). Where data are available, the economic analyses do attempt to measure the net economic impact. However, no data was found that enabled us to measure beneficial impacts, nor was such information submitted during the public comment period. Most of the other benefit categories submitted by the commenter reflect broader social values, which are not the same as economic impacts. While the Secretary must consider economic and other relevant impacts as part of the final decision-making process under section 4(b)(2) of the Act, the Act explicitly states that it is the

government's policy to conserve all threatened and endangered species and the ecosystems upon which they depend. Thus, we believe that explicit consideration of broader social values for the subspecies and its habitat, beyond the more traditionally defined economic impacts, is not necessary as Congress has already clarified the social importance. We note, as a practical matter, it is difficult to develop credible estimates of such values, because they are not readily observed through typical market transactions and can only be inferred through advanced, tailor-made studies that are time consuming and expensive to conduct. We currently lack both the budget and time needed to conduct such research before meeting our court-ordered final rule deadline. In summary, we believe that society places significant value on conserving threatened and endangered species and the habitats they depend on, but we need only to consider whether the economic impacts (both positive and negative) are significant enough to merit exclusion of any particular area without causing the species to go extinct.

Comments From States

Section 4(i) of the Act states, "the Secretary shall submit to the State agency a written justification for her failure to adopt regulation consistent with the agency's comments or petition." Comments received from the CNMI Division of Fish and Wildlife regarding the proposal to designate critical habitat for the Rota bridled white-eye are addressed below.

1. *State Comment:* The CNMI Division of Fish and Wildlife stated that the forests in the As Rosalia area are severely degraded and support very few Rota bridled white-eyes, and suggested that this area be removed from the designation.

Our Response: We agree that the forests in the As Rosalia area are degraded and likely support low numbers of Rota bridled white-eyes. However, we estimated that approximately 4,000 ac (1,600 ha) of forest that contains features essential to the conservation of the Rota bridled white-eye would be needed to support the long-term conservation of the species (see the "Criteria Used to Identify Critical Habitat" section for details). Forests containing essential features are primarily limited to the Sabana region, which includes the As Rosalia area. The As Rosalia area is occupied, albeit by low numbers of Rota bridled white-eyes (Fancy and Snetsinger 2001, p. 276), it still contains features that are essential to the conservation of the species (e.g., yoga,

oschal, and kafu in the canopy or understory), and it has the potential to be improved with appropriate management; therefore, we have included this area in the final designation.

2. *State Comment:* The CNMI Division of Fish and Wildlife stated that the Sabana plateau is primarily grassland and agricultural land and does not contain Rota bridled white-eyes or good habitat for the species. Therefore, they recommend that this area be removed from the designation.

Our Response: We agree that some of the Sabana plateau is not forested, and we did not include these non-forested areas in the proposal or in this final designation because they do not contain the primary constituent elements. We also agree that some of the forested areas on the Sabana plateau have sustained damage caused by typhoons, deer browsing, and other factors. However, as stated above (see State Comment 1), approximately 4,000 ac (1,600 ha) of forest that contains features essential to the conservation of the Rota bridled white-eye would be needed to support the long-term conservation of the species (see the "Criteria Used to Identify Critical Habitat" section for details). Forests containing these essential features are primarily limited to the Sabana region, which includes the Sabana plateau. The Sabana plateau contains many of the features essential for the long-term conservation of the Rota bridled white-eye (such as yoga, oschal, and kafu in the canopy or understory), and with appropriate weed and deer control measures we believe the forests can be managed to increase Rota bridled white-eye numbers. We do not agree with the statement that Rota bridled white-eyes are not found on the Sabana plateau. While the central portion of the plateau is currently occupied at very low population levels, the outer edges of the plateau contain high density Rota bridled white-eye areas (Fancy and Snetsinger 2001, p. 276). We did not remove the forested areas of the Sabana plateau from the final designation because they contain documented occurrences of Rota bridled white-eyes and their primary constituent elements.

Summary of Changes From Proposed Rule

In developing the final critical habitat designation for the Rota bridled white-eye, we reviewed the comments received on our proposed rule and draft economic analysis and conducted further evaluation of lands included under the proposal. Based on our review, we have determined that no

changes to the proposed designation are warranted.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species, and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use all methods and procedures necessary to bring any endangered species 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 prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires formal consultation on Federal actions that are likely to result in an adverse effect to 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 does not allow government or public access to private lands.

To be included in a critical habitat designation, the habitat within the area occupied by the species must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if its essential features may require special management or protection. In addition, when the best available

scientific data demonstrate that the conservation needs of the species do not require additional areas, we will not designate critical habitat in areas not occupied by the species when it was listed. An area currently occupied by the species that was not known to be occupied at the time of listing will likely, but not always, be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service, provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service 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 determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include 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, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject

to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to designate as critical habitat, we consider the physical and biological features (primary constituent elements or PCEs) that are essential to the conservation of the species, and within areas occupied by the species at the time of listing, that may require special management considerations and protection. These 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, and rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historical geographical and ecological distributions of a species.

Based on our current knowledge of the life history, biology, and ecology of the species, we have determined that the primary constituent elements required by the Rota bridled white-eye for the biological needs of foraging, sheltering, roosting, and nesting and rearing of young are:

Forest above 490 ft (150 m) in elevation containing a midstory and canopy layer, high epiphytic plant volume (typically 11 percent or greater), *Elatostema* and *Procris* spp. on the ground, and yoga, oschal, faniok, kafu, and/or ahgao trees as dominant forest components. In addition, the habitat should contain specific forest components for foraging, nesting, or both, as follows:

(1) Yoga, oschal, faniok, pengua, ahgao, amahadyan, avocado, hodda, mapunayao, atoto, sosugi, and/or sumac-lada trees, and/or piao, in the canopy or subcanopy for foraging; or

(2) Yoga, oschal, faniok, and/or sosugi trees 10 to 49 ft (3 to 15 m) tall and 1 to 24 in (2 to 60 cm) diameter at breast height for nesting.

Because not all life history functions require all the primary constituent elements, not all critical habitat will contain all the primary constituent elements. However, the areas designated in this rule have been determined to contain sufficient primary constituent elements to provide for one or more of the life history functions of the Rota bridled white-eye. For more information on the primary constituent elements essential to the conservation of the Rota bridled white-eye see the proposal to designate critical habitat published in the **Federal Register** on September 14, 2005 (70 FR 54335).

Criteria Used To Identify Critical Habitat

We considered several factors in identifying and selecting lands for designation as critical habitat for the Rota bridled white-eye. First, we assessed the possible recovery goals for the species to help determine the amount of habitat needed to conserve the species. The recovery considerations are based on minimum viable population information from Reed *et al.* (2003). Reed *et al.* (2003, p. 27) reviewed minimum viable population sizes for 102 vertebrate species, including one white-eye species, and estimated that 7,000 breeding adults had a 99 percent likelihood of persisting for 40 generations. We then used data on Japanese white-eyes (*Zosterops japonicus*) (van Riper 2000, p. 10) and silvereyes (*Zosterops lateralis*) (Kikkawa and Wilson 1983, p. 189; Catterall *et al.* 1989, p. 559) to estimate the lifespan of the Rota bridled white-eye and the percentage of its population that may be breeding in order to apply Reed *et al.*'s findings to the Rota bridled white-eye. We used the data on these two more closely related white-eye species because similar population parameter estimates are not available for the Rota bridled white-eye. The other species are similar to the Rota bridled white-eye in size (Kikkawa 1980, p. 441; van Riper 2000, p. 2; Derrickson 1998), breeding biology (Amidon *et al.* 2004, p. 345), and social behavior (Catterall *et al.* 1982, p. 405; Amidon 2000, pp. 33–34; van Riper 2000 pp. 6–7). Based on the information, a potential benchmark for recovery of this species would be a single population of at least 16,000 Rota bridled white-eyes on the island of Rota. To determine the approximate quantity of habitat that would be occupied by a population of this size, we reviewed Rota bridled white-eye density estimates

from 1996 (Fancy and Snetsinger 2001, pp. 275–276) and 1999 (Amidon 2000, p. 68) surveys.

The maximum Rota bridled white-eye densities recorded by Fancy and Snetsinger (2001, p. 276) in 1996, and Amidon (2000, p. 68) in 1999, were approximately 3 and 4 white-eyes per ac (7 and 10 per ha), respectively. The higher Rota bridled white-eye densities reported by Amidon (2000) are likely a result of differing survey methods and not an increase in Rota bridled white-eye densities over the years. The Fancy and Snetsinger (2001, p. 276) estimates were based on a single set of surveys in the Rota bridled white-eye's range involving area searches. The Amidon estimates (2000, pp. 14–15) were based on multiple point count surveys conducted in 1998 and 1999.

Based on these density estimates, we believe that 4 white-eyes per ac (10 per ha) is a conservative estimate of the number of Rota bridled white-eyes a forested area could support if the threats to the species were controlled. Utilizing this density estimate, we then divided the population recovery benchmark (16,000 Rota bridled white-eyes; see discussion above) by 4 birds per ac (10 per ha) and estimated that approximately 4,000 ac (1,600 ha) of forest would be needed to conserve the Rota bridled white-eye. This was then used as a guideline for selecting how much habitat was essential to the Rota bridled white-eye for the critical habitat designation.

When selecting areas for designation, we first selected all of the forested areas (approximately 638 ac (258 ha)) that contained high densities of Rota bridled white-eyes in 1996 (Fancy and Snetsinger 2001, p. 276) and 1999 (Amidon 2000, pp. 68, 82). These areas are primarily limestone forest or introduced forest with sosugi trees or piao. We then selected low density areas that had large numbers of white-eyes in 1982, 1987, 1989, and 1994, and large tracts of mature limestone forest identified by Falanruw *et al.* (1989, pp. 2–3, 6–8). These areas were prioritized because they contain the primary constituent elements needed by the species and have supported larger white-eye populations than other areas containing the white-eyes. When defining critical habitat boundaries, we avoided areas not known to contain primary constituent elements essential for Rota bridled white-eye conservation, such as agricultural lands and other developed lands.

We are designating critical habitat on lands that contain the features that are essential to the conservation of the Rota bridled white-eye. These areas contain

the primary constituent elements and were considered to be occupied at the time the species was listed (69 FR 3022; January 22, 2004) (Fancy and Snetsinger 2001, p. 276). A brief discussion of the area designated as critical habitat is provided in the Critical Habitat Designation section below.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and containing the primary constituent elements may require special management considerations or protections. As we undertake the process of designating critical habitat for a species, we first evaluate lands defined by the physical and biological features essential to the conservation of the species for inclusion in the designation pursuant to section 3(5)(A) of the Act. Secondly, we evaluate lands defined by those features to assess whether they may require special management considerations or protection.

As stated in the final listing rule (69 FR 3022; January 22, 2004), the available information indicates habitat loss and degradation and predation by introduced rats (*Rattus* spp.) and birds (black drongos (*Dicrurus macrocercus*)) are threats to the long-term conservation of the Rota bridled white-eye. In addition, the small population size and limited distribution of the species also make it vulnerable to extinction from random environmental events (*e.g.*, typhoons). To address these threats and conserve the species, the following special management actions may be needed: (1) Protection of the remaining stands of mature limestone forest from clearing and modification; (2) restoration of degraded areas; (3) invasive plant control; and (4) rat and black drongo control. For additional information about the threats to the Rota bridled white-eye, see the final listing rule (69 FR 3022; January 22, 2004).

Critical Habitat Designation

We are designating one unit of approximately 3,958 ac (1,602 ha) of forested land for the Rota bridled white-eye as critical habitat (see Map 1 in the rule portion of this document). This area contains forested areas on 3,700 ac (1,498 ha) of public and 258 ac (104 ha) of private lands along the slopes and top of the Sabana plateau. Approximately 62 percent (2,292 ac; 928 ha) of the public land within this proposed designation is within the Sabana Conservation Area. This unit is composed of limestone forest,

introduced forest, and secondary vegetation that together contain the full range of primary constituent elements needed for long-term conservation of the Rota bridled white-eye. This area was considered occupied at the time the Rota bridled white-eye was listed (69 FR 3022; January 22, 2004) (Fancy and Snetsinger 2001, p. 276) and contains the high-density areas identified by Fancy and Snetsinger (2001, p. 276); the only known nesting areas for the Rota bridled white-eye (Pratt 1985, p. 93; Lusk and Taisacan 1997, p. 183; Amidon 2000, p. 109); and the areas where larger numbers of Rota bridled white-eyes have been regularly observed during surveys since 1982. This unit also contains the primary threats to the conservation of the Rota bridled white-eye (introduced rats, black drongos, and habitat degradation and loss [Engbring *et al.* 1986, pp. 10–11; Amidon 2000, pp. 41–43; Fancy and Snetsinger 2001, pp. 278–280]) and requires special management (see Special Management Considerations or Protections above).

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as “a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.” However, recent decisions by the 5th and 9th Circuit Court of Appeals have invalidated this definition. Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency

cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing their proposed action as a result of the section 7(a)(2) compliance process if those species are listed or the critical habitat is designated.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, the Service will issue: (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, but are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. "Reasonable and prudent alternatives" are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, are consistent with the scope of the Federal agency's legal authority and jurisdiction, are economically and technologically feasible, and are actions that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of 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 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the Rota bridled white-eye or its designated critical habitat will require section 7 consultation under the Act. Activities on non-Federal lands requiring a Federal permit (such as a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Rota Bridled White-eye and its Critical Habitat

Jeopardy Standard

Prior to and following designation of critical habitat, the Service has applied an analytical framework for Rota bridled white-eye jeopardy analyses that relies heavily on the importance of the core area population to the survival and recovery of the Rota bridled white-eye. The section 7(a)(2) analysis is focused not only on this population but also on the habitat conditions necessary to support it.

The jeopardy analysis usually expresses the survival and recovery needs of the Rota bridled white-eye in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population, inclusive of associated habitat conditions, a jeopardy finding may be warranted because of the relationship of the core area population

to the survival and recovery of the species as a whole.

Adverse Modification Standard

The analytical framework described in the Director's December 9, 2004, memorandum is used to complete section 7(a)(2) analyses for Federal actions affecting Rota bridled white-eye critical habitat. The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of the Rota bridled white-eye critical habitat unit is to support a viable core area population.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for the Rota bridled white-eye is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for the Rota bridled white-eye include, but are not limited to:

(1) Actions that would reduce the amount of limestone forest above 490 ft (150 m) elevation in the Sabana region. Such activities could include vegetation clearing and fires. These activities could eliminate or reduce foraging and breeding habitat.

(2) Actions that would increase the fragmentation of limestone forest above 490 ft (150 m) elevation in the Sabana region. Such activities could include vegetation clearing and burning. These activities could reduce connectivity between areas utilized by Rota bridled white-eyes for foraging and breeding and increase the amount of forest edge exposed to the potential impacts of typhoons (e.g., tree uprooting and limb damage), thereby further reducing the availability of breeding and foraging habitat.

(3) Actions that would degrade limestone forest above 490 ft (150 m) elevation in the Sabana region. Such activities could include spreading or

introducing invasive weed species, such as *Coccinia grandis* (scarlet gourd), that inhibit the natural regeneration of native forest utilized by Rota bridled white-eyes for breeding and foraging.

The critical habitat unit contains the features essential to the conservation of the Rota bridled white-eye. The unit is within the geographic range of the species, was occupied by the species at the time of listing (based on observations made within the last 25 years), and is likely to be used by the Rota bridled white-eye. Federal agencies are already required to consult with us on activities in areas currently occupied by the Rota bridled white-eye to ensure that their actions do not jeopardize the continued existence of the Rota bridled white-eye.

Economic Analysis

Section 4(b)(2) of the Act requires us to designate critical habitat on the basis of the best scientific information available and to consider economic and other relevant impacts of designating a particular area as critical habitat. We may exclude areas from critical habitat upon a determination that the benefits of such exclusions outweigh the benefits of specifying such areas as critical habitat. We cannot exclude such areas from critical habitat when such exclusion will result in the extinction of the species concerned.

Following the publication of the proposed critical habitat designation, we conducted an economic analysis to estimate the potential economic effect of the designation. The draft analysis was made available for public review on May 4, 2006 (71 FR 26315). We accepted comments on the draft analysis until June 5, 2006.

The primary purpose of the economic analysis is to estimate the potential economic impacts associated with the designation of critical habitat for the Rota bridled white-eye. This information is intended to assist the Secretary in making decisions about whether the benefits of excluding particular areas from the designation outweigh the benefits of including those areas in the designation. The economic analysis considers the economic efficiency effects that may result from the designation, including habitat protections that may exist due to the listing of the species. It also addresses distribution of impacts, including an assessment of the potential effects on small entities and the energy industry.

This analysis focuses on the direct and indirect costs of the rule. However, economic impacts to land use activities can exist in the absence of critical habitat. These impacts may result from,

for example, local zoning laws, State and natural resource laws, and enforceable management plans and best management practices applied by other State and Federal agencies. Economic impacts that result from these types of protections are not included in the analysis as they are considered to be part of the regulatory and policy baseline.

Pre-designation costs include conservation activities to protect the Rota bridled white-eye and its habitat associated with sections 4, 7, and 10 of the Act that have accrued since the species was listed as endangered on January 22, 2004 (69 FR 3022), but prior to the designation of critical habitat. Total pre-designation costs associated with lands designated as critical habitat are estimated to be \$68,000 in 2005 dollars. These costs include species and habitat research and planning efforts associated with a proposed island-wide habitat conservation plan.

Post-designation effects would include likely future costs associated with protecting the Rota bridled white-eye and its habitat in the 20-year period following the designation of critical habitat (effectively 2006 through 2025). Costs for this designation are associated with public land management, such as species and habitat research and development of habitat conservation plans associated with agricultural homesteads, or the loss of development value of potential agricultural homestead lands that are not developed in the critical habitat unit. Three alternatives were assessed for determining the potential cost of this designation. The first alternative was the development of an island-wide habitat conservation plan. The second was the development of a habitat conservation plan just for agricultural homesteads within the critical habitat unit. The third was that no habitat conservation plan would be developed, and the value of the developable land within the critical habitat unit would be lost. The future costs for Alternatives 1 and 2 are similar: Total undiscounted costs were estimated to range from \$1,301,000 to \$1,328,000 over the 20-year forecast period. Assuming a 7 percent discount rate, costs for Alternatives 1 and 2 were estimated to range from a present value of \$806,000 to \$830,000 or an annualized value of \$76,000 to \$79,000 over the 20-year forecast period. Assuming a 3 percent discount rate, total costs for Alternatives 1 and 2 were estimated to range from a present value of \$1,034,000 to \$1,059,000 or an annualized value of \$69,000 to \$71,000 over the forecast period. Future undiscounted costs for

Alternative 3 were estimated to be \$4,700,000. Assuming a 7 percent discount rate, the cost for Alternative 3 was estimated to be \$4,465,000 or an annualized value of \$421,000 over the 20-year forecast period. Assuming a 3 percent discount rate, the cost for Alternative 3 was estimated to be \$4,572,000 or an annualized value of \$307,000 over the 20-year forecast period.

A copy of the final economic analysis with supporting documents is included in our administrative record and may be obtained by contacting U.S. Fish and Wildlife Service, Division of Endangered Species (see **ADDRESSES** section), or by downloading from the Internet at <http://www.fws.gov/pacificislands>.

Exclusions Under Section 4(b)(2) of the Act

Our economic analysis indicates an overall low cost resulting from the designation. However, pursuant to section 4(b)(2) of the Act, we must consider relevant impacts in addition to economic ones. We determined that the lands within the designation of critical habitat for the Rota bridled white-eye are not owned or managed by the Department of Defense, there are currently no habitat conservation plans for the Rota bridled white-eye, and the designation does not include any Tribal lands or trust resources. We anticipate no impact to national security, partnerships, or habitat conservation plans from this critical habitat designation. Based on the best available information, including the prepared economic analysis, we believe the unit contains the features that are essential for the conservation of this species. Therefore, we have found no areas for which the benefits of exclusion outweigh the benefits of inclusion, and so have not excluded any areas from this designation of critical habitat for Rota bridled white-eye based on economic or other impacts.

Clarity of the Rule

Executive Order 12866 requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this final rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the final rule clearly stated? (2) Does the final rule contain technical jargon that interferes with the clarity? (3) Does the format of the final rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the

SUPPLEMENTARY INFORMATION section of the preamble helpful in understanding the final rule? (5) What else could we do to make this final rule easier to understand?

Send a copy of any comments on how we could make this final rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: Exsec@ios.doi.gov.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal or policy issues, but will not have an annual effect on the economy of \$100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. As explained above, we prepared an economic analysis of this action, which has assisted us in meeting the requirements of E.O. 12866, as well as section 4(b)(2) of the Act to determine the economic consequences of designating the specific areas as critical habitat. We also used it to help determine whether to exclude any area from critical habitat.

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

Under the Regulatory Flexibility Act (RFA) (as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a statement of factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA also amended the RFA to require a certification statement.

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. Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than \$5 million in annual sales, general and heavy construction businesses with less than \$27.5 million in annual business, special trade contractors doing less than \$11.5 million in annual business, and agricultural businesses with annual sales less than \$750,000. To determine if potential economic impacts to these small entities are significant, we consider the types of activities that might trigger regulatory impacts under this rule, as well as the types of project modifications that may result. In general, the term "significant economic impact" is meant to apply to a typical small business firm's business operations.

To determine if the rule could significantly affect a substantial number of small entities, we consider the number of small entities affected within particular types of economic activities (*e.g.*, housing development, grazing, oil and gas production, timber harvesting). We apply the "substantial number" test individually to each industry to determine if certification is appropriate. However, the SBREFA does not explicitly define "substantial number" or "significant economic impact." Consequently, to assess whether a "substantial number" of small entities is affected by this designation, this analysis considers the relative number of small entities likely to be impacted in an area. In some circumstances, especially with critical habitat designations of limited extent, we may aggregate across all industries and consider whether the total number of small entities affected is substantial. In estimating the number of small entities potentially affected, we also consider whether their activities have any Federal involvement.

Designation of critical habitat only affects activities conducted, funded, or permitted by Federal agencies. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by critical habitat designation. In areas where the species is present, Federal agencies already are required to consult with us under section 7 of the Act on activities they fund, permit, or implement that may affect the Rota bridled white-eye.

Federal agencies also must consult with us if their activities may affect critical habitat. Designation of critical habitat, therefore, could result in an additional

economic impact on small entities due to the requirement to reinstate consultation for ongoing or future Federal activities.

In our draft economic analysis of this designation, we evaluated the potential economic effects on small business entities resulting from the protection of the Rota bridled white-eye and its habitat related to the listing of the species and the proposed designation of critical habitat. The estimated effects are anticipated to be borne by the CNMI government (which includes both the Department of Land and Natural Resources and Department of Public Lands) and the Service. The CNMI government has 69,221 constituents and is not considered a small entity.

Based on our experience with consultations pursuant to section 7 of the Act for all listed species, virtually all projects—including those that, in their initial proposed form, would result in adverse modification determinations in section 7 consultations—can be implemented successfully with, at most, the adoption of reasonable and prudent alternatives. These measures, by definition, must be economically feasible and within the scope of authority of the Federal agency involved in the consultation. We can only describe the general kinds of actions that may be identified in future reasonable and prudent alternatives. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation. Within the critical habitat designation, the types of Federal actions or authorized activities that we have identified as potential concerns are:

- (1) Regulation of activities affecting waters of the United States by the Corps under section 404 of the Clean Water Act;
- (2) Regulation of water flows, damming, diversion, and channelization implemented or licensed by Federal agencies;
- (3) Road construction and maintenance and right-of-way designation funded by the Federal Highway Administration, and Federal regulation of agricultural activities;
- (4) Hazard mitigation and post-disaster repairs funded by the Federal Emergency Management Agency; and
- (5) Activities funded by the Environmental Protection Agency, U.S. Department of Energy, or any other Federal agency.

It is likely that a developer or other project proponent could modify a project or take measures to protect the Rota bridled white-eye. The kinds of actions that may be included if future

reasonable and prudent alternatives become necessary include conservation set-asides, management of competing nonnative species, restoration of degraded habitat, and regular monitoring. These are based on our understanding of the needs of the species and the threats it faces, as described in the final listing rule and this critical habitat designation. These measures are not likely to result in a significant economic impact to project proponents, because no small businesses are involved and most land is managed by the CNMI government.

In summary, we have considered whether designation of critical habitat would result in a significant economic effect on a substantial number of small entities. We have determined, for the above reasons and based on currently available information, that it is not likely to affect a substantial number of small entities. Federal involvement, and thus section 7 consultations, would be limited to a subset of the area designated. The most likely Federal involvement could include Federal Highway Administration funding for road improvements and Federal Emergency Management Agency funding for utility and building repair. A regulatory flexibility analysis is not required.

Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 et seq.)

Under SBREFA, this rule is not a major rule. Our detailed assessment of the economic effects of this designation is described in the economic analysis. Based on the effects identified in the economic analysis, we believe that this rule will not have an annual effect on the economy of \$100 million or more, will not cause a major increase in costs or prices for consumers, and will not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. Refer to the final economic analysis for a discussion of the effects of this determination.

Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This final rule to designate critical habitat for the Rota bridled white-eye is not expected to significantly affect energy supplies, distribution, or use. 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 findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, 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; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

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

(b) We do not believe that this rule will significantly or uniquely affect small governments because it will not produce a Federal mandate of \$100 million or greater in any year, that is, it is not a "significant regulatory action" under the Unfunded Mandates Reform Act. The designation of critical habitat imposes no obligations on State or local governments. As such, a Small Government Agency Plan is not required.

Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this final critical habitat designation with appropriate resource agencies in the Commonwealth of the Northern Mariana Islands. The designation of critical habitat in areas currently occupied by the Rota bridled white-eye may impose some additional regulatory restrictions to those currently in place, but only where there is a Federal action, and, therefore, will likely have little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988, the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We are

designating critical habitat in accordance with the provisions of the Endangered Species Act. This final rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Rota bridled white-eye.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act

Outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this

determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This determination has been upheld in the Ninth Circuit (*Douglas County v. Babbitt*, 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996)).

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), Executive Order 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands on the island of Rota. Therefore, no Tribal lands were included in the designation of critical habitat for the Rota bridled white-eye.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

Author(s)

The primary author of this package is the Pacific Islands Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

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

Regulation Promulgation

■ Accordingly, we amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

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

■ 2. In § 17.11(h), revise the entry for "White-eye, Rota bridled" under "BIRDS" to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
BIRDS							
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *
White-eye, Rota bridled.	<i>Zosterops rotensis</i> ..	Western Pacific Ocean-U.S.A (Commonwealth of the Northern Mariana Islands).	Entire	E	741	17.95(b)	NA
* * *	* * *	* * *	* * *	* * *	* * *	* * *	* * *

■ 3. Amend § 17.95(b) by adding critical habitat for the "Rota bridled white-eye (*Zosterops rotensis*)" under "BIRDS," in the same order in which species are presented in § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(b) Birds

* * * * *

Rota Bridled White-Eye (*Zosterops rotensis*)

(1) Critical habitat units are depicted for Rota, Commonwealth of the Northern Mariana Islands, on the map below.

(2) The primary constituent elements of critical habitat for the Rota bridled white-eye are the habitat components that provide forest above 490 feet (ft) (150 meters (m)) in elevation containing a midstory and canopy layer, high epiphytic plant volume (typically 11 percent or greater), *Elatostema* and *Procris* spp. on the ground, and *Elaeocarpus joga* (yoga), *Hernandia labyrinthica* (oschal), *Merrilliodendron megacarpum* (faniok), *Pandanus tectorius* (kafu), and/or *Premna obtusifolia* (ahgao) trees as dominant forest components for foraging, sheltering, roosting, and nesting and rearing of young. In addition, the habitat should contain the specific forest

components for foraging, nesting, or both, as follows:

(i) Yoga, oschal, faniok, *Macaranga thompsonii* (pengua), ahgao, *Pipturus argenteus* (amahadyan), *Persea americana* (avocado), *Ficus tinctoria* (hodda), *Aglaia mariannensis* (mapunyao), *Eugenia thompsonii* (atoto), *Acacia confusa* (sosugi), and/or *Tarennia sambucina* (sumac-lada) trees, and/or *Bambusa vulgaris* (piao, bamboo) in the canopy or subcanopy for foraging; or

(ii) Yoga, oschal, faniok, and/or sosugi trees 10 to 49 ft (3 to 15 m) tall and 1 to 24 inches (2 to 60 centimeters) diameter at breast height for nesting.

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, airports, roads, and other paved areas) and the land on which they are located existing on the effective date of this rule and not containing one or more of the primary constituent elements.

Critical Habitat Map Unit

(4) Data layers defining the mapped unit were created on a base of USGS 7.5' quadrangles, and the critical habitat unit was then mapped using Universal Transverse Mercator (UTM) coordinates.

(5) Rota bridled white-eye critical habitat, Rota, Commonwealth of the Northern Mariana Islands (3,958 ac; 1,602 ha).

(i) Unit consists of 346 points with following coordinates in UTM Zone 55 with the units in meters using World Geodetic System 1984 (WGS84):

300742, 1565012, 300809, 1565217,
300840, 1565285, 300875, 1565341,
300962, 1565420, 300995, 1565444,
301061, 1565473, 301135, 1565490,
301186, 1565494, 301327, 1565491,
301531, 1565451, 301796, 1565425,
301905, 1565419, 301958, 1565425,
302030, 1565456, 302067, 1565466,
302205, 1565482, 302229, 1565471,
302272, 1565429, 302310, 1565416,
302852, 1565346, 302882, 1565343,
302932, 1565348, 302953, 1565356,
302986, 1565377, 303007, 1565407,
303005, 1565510, 302983, 1565616,
302978, 1565666, 302982, 1565740,
302990, 1565763, 303005, 1565777,
303103, 1565824, 303150, 1565828,
303223, 1565806, 303243, 1565792,
303284, 1565740, 303303, 1565731,
303315, 1565733, 303343, 1565752,
303500, 1565896, 303645, 1565995,
303813, 1566125, 303903, 1566164,
304054, 1566243, 304085, 1566255,
304155, 1566270, 304271, 1566306,
304326, 1566311, 304388, 1566328,
304494, 1566336, 304562, 1566352,
304700, 1566368, 304734, 1566365,
304760, 1566355, 304791, 1566336,
304835, 1566299, 304904, 1566293,
304977, 1566261, 305032, 1566256,
305110, 1566231, 305131, 1566220,
305152, 1566197, 305174, 1566158,
305197, 1566090, 305213, 1566016,
305244, 1565964, 305317, 1565923,
305417, 1565815, 305444, 1565800,
305461, 1565775, 305493, 1565766,
305608, 1565782, 305678, 1565798,
305840, 1565858, 305947, 1565890,
306134, 1565992, 306230, 1566039,
306271, 1566055, 306365, 1566071,
306500, 1566077, 306557, 1566089,
306588, 1566105, 306773, 1566245,
306819, 1566265, 307118, 1566324,
307158, 1566325, 307191, 1566320,
307249, 1566295, 307359, 1566230,
307407, 1566207, 307778, 1566099,

307843, 1566062, 307898, 1566047,
307941, 1566020, 307999, 1566003,
308109, 1565940, 308162, 1565898,
308260, 1565834, 308407, 1565674,
308437, 1565635, 308458, 1565596,
308529, 1565323, 308544, 1565200,
308543, 1565150, 308537, 1565112,
308472, 1564974, 308423, 1564834,
308409, 1564746, 308394, 1564555,
308385, 1564519, 308306, 1564339,
308149, 1563842, 308086, 1563674,
308065, 1563629, 308013, 1563560,
308004, 1563528, 307995, 1563514,
307953, 1563481, 307857, 1563392,
307835, 1563367, 307826, 1563347,
307816, 1563286, 307803, 1563028,
307795, 1562975, 307783, 1562966,
307725, 1562954, 307691, 1562925,
307691, 1562911, 307717, 1562869,
307712, 1562856, 307699, 1562846,
307656, 1562826, 307555, 1562804,
307518, 1562768, 307480, 1562756,
307447, 1562734, 307353, 1562655,
307323, 1562617, 307307, 1562586,
307300, 1562465, 307289, 1562432,
307266, 1562397, 307216, 1562348,
307176, 1562324, 307120, 1562306,
307027, 1562297, 307000, 1562286,
306970, 1562267, 306923, 1562220,
306885, 1562107, 306868, 1562080,
306853, 1562074, 306826, 1562082,
306799, 1562099, 306759, 1562155,
306731, 1562179, 306698, 1562219,
306678, 1562233, 306657, 1562234,
306620, 1562216, 306571, 1562209,
306513, 1562179, 306481, 1562177,
306476, 1562191, 306472, 1562272,
306434, 1562361, 306391, 1562443,
306373, 1562497, 306222, 1562602,
306206, 1562602, 306180, 1562585,
306166, 1562534, 306144, 1562526,
306121, 1562532, 306080, 1562567,
306054, 1562574, 305964, 1562570,
305912, 1562563, 305849, 1562573,
305808, 1562551, 305733, 1562553,
305722, 1562561, 305714, 1562595,
305698, 1562604, 305684, 1562596,
305672, 1562575, 305662, 1562500,
305655, 1562483, 305646, 1562484,
305635, 1562495, 305625, 1562531,
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305567, 1562567, 305551, 1562561,
305517, 1562518, 305486, 1562501,
305461, 1562470, 305453, 1562465,
305438, 1562464, 305415, 1562480,
305407, 1562505, 305410, 1562537,
305422, 1562585, 305421, 1562606,
305413, 1562613, 305386, 1562616,
305373, 1562624, 305347, 1562674,
305328, 1562692, 305291, 1562716,
305257, 1562722, 305232, 1562721,
305219, 1562712, 305204, 1562692,
305189, 1562688, 305160, 1562698,
305110, 1562731, 305083, 1562735,
305065, 1562733, 305037, 1562717,
305006, 1562668, 304981, 1562647,
304958, 1562638, 304924, 1562635,
304890, 1562598, 304856, 1562597,

304819, 1562606, 304787, 1562629,
304737, 1562632, 304719, 1562648,
304811, 1562704, 304812, 1562719,
304793, 1562738, 304770, 1562750,
304721, 1562752, 304653, 1562789,
304603, 1562797, 304550, 1562793,
304520, 1562769, 304504, 1562762,
304464, 1562761, 304432, 1562770,
304403, 1562772, 304355, 1562769,
304332, 1562760, 304325, 1562751,
304323, 1562731, 304327, 1562719,
304343, 1562698, 304348, 1562679,
304349, 1562583, 304356, 1562513,
304351, 1562493, 304270, 1562434,
304223, 1562419, 304206, 1562376,
304186, 1562353, 304126, 1562326,
304055, 1562283, 303995, 1562276,
303953, 1562281, 303890, 1562321,
303864, 1562358, 303830, 1562380,
303825, 1562390, 303827, 1562400,
303835, 1562405, 303860, 1562408,
303865, 1562417, 303863, 1562438,
303826, 1562510, 303811, 1562567,
303783, 1562600, 303768, 1562605,
303669, 1562602, 303597, 1562589,
303549, 1562599, 303490, 1562569,
303399, 1562504, 303334, 1562463,
303311, 1562441, 303239, 1562346,
303088, 1562240, 303073, 1562218,
303048, 1562210, 303010, 1562207,
302957, 1562190, 302925, 1562192,
302908, 1562205, 302903, 1562216,
302906, 1562269, 302895, 1562348,
302883, 1562361, 302835, 1562375,
302814, 1562391, 302792, 1562456,
302766, 1562563, 302712, 1562684,
302665, 1562811, 302645, 1562883,
302595, 1563127, 302565, 1563228,
302535, 1563275, 302436, 1563381,
302380, 1563478, 302354, 1563506,
302333, 1563519, 302254, 1563541,
302185, 1563577, 302125, 1563592,
302080, 1563615, 302015, 1563692,
301971, 1563777, 301951, 1563806,
301890, 1563864, 301836, 1563908,
301750, 1563946, 301723, 1563952,
301650, 1563960, 301611, 1563981,
301594, 1564000, 301585, 1564023,
301584, 1564061, 301593, 1564112,
301585, 1564135, 301474, 1564241,
301450, 1564254, 301413, 1564259,
301352, 1564251, 301311, 1564237,
301295, 1564239, 301214, 1564294,
301096, 1564399, 300966, 1564483,
300945, 1564505, 300922, 1564541,
300892, 1564569, 300859, 1564634,
300808, 1564710, 300804, 1564729,
300806, 1564769, 300802, 1564795,
300740, 1564944, 300737, 1564975.

(ii) Not including 13 areas:

(A) Bounded by the following 13 points (2 ac; 1 ha): 301307, 1564935; 301288, 1564908; 301291, 1564898; 301301, 1564889; 301354, 1564890; 301410, 1564877; 301424, 1564879; 301460, 1564899; 301472, 1564922; 301468, 1564941; 301452, 1564950; 301382, 1564933; 301335, 1564939.

(B) Bounded by the following 48 points (39 ac; 16 ha): 301471, 1564593; 301458, 1564567; 301463, 1564557; 301550, 1564532; 301578, 1564506; 301598, 1564501; 301639, 1564501; 301668, 1564487; 301760, 1564465; 301797, 1564449; 301803, 1564442; 301802, 1564433; 301789, 1564410; 301787, 1564397; 301798, 1564388; 301812, 1564387; 301824, 1564395; 301844, 1564426; 301857, 1564432; 301920, 1564441; 301980, 1564460; 302041, 1564447; 302081, 1564449; 302122, 1564459; 302169, 1564479; 302242, 1564523; 302338, 1564565; 302377, 1564592; 302400, 1564618; 302417, 1564647; 302427, 1564679; 302426, 1564699; 302418, 1564724; 302403, 1564740; 302363, 1564757; 302332, 1564757; 302269, 1564741; 302146, 1564681; 302059, 1564655; 302017, 1564655; 301908, 1564682; 301866, 1564674; 301831, 1564660; 301713, 1564582; 301660, 1564566; 301613, 1564561; 301554, 1564564; 301516, 1564572.

(C) Bounded by the following 47 points (58 ac; 23 ha): 301566, 1564945; 301569, 1564920; 301578, 1564904; 301624, 1564888; 301649, 1564857; 301660, 1564850; 301679, 1564850; 301706, 1564888; 301726, 1564892; 301744, 1564883; 301754, 1564864; 301759, 1564836; 301777, 1564825; 301824, 1564810; 301963, 1564798; 301986, 1564807; 302011, 1564845; 302030, 1564859; 302105, 1564881; 302150, 1564885; 302309, 1564864; 302407, 1564883; 302422, 1564895; 302444, 1564926; 302462, 1564938; 302486, 1564939; 302550, 1564927; 302646, 1564928; 302700, 1564940; 302712, 1564951; 302716, 1564964; 302713, 1564975; 302696, 1564984; 302614, 1564988; 302602, 1564995; 302592, 1565021; 302584, 1565102; 302572, 1565118; 302490, 1565138; 302195, 1565151; 302135, 1565146; 302088, 1565135; 301955, 1565082; 301722, 1565014; 301662, 1564986; 301608, 1564971.

(D) Bounded by the following 61 points (91 ac; 37 ha): 302150, 1564098; 302172, 1564039; 302208, 1564002; 302245, 1563984; 302303, 1563975; 302364, 1563928; 302390, 1563916; 302429, 1563913; 302494, 1563933; 302545, 1563926; 302576, 1563927; 302602, 1563941; 302629, 1563977; 302641, 1563982; 302686, 1563948; 302701, 1563945; 302715, 1563951; 302735, 1563975; 302766, 1564034; 302757, 1564078; 302769, 1564119; 302759, 1564172; 302762, 1564208; 302776, 1564221; 302822, 1564235; 302842, 1564246; 302867, 1564270; 302899, 1564315; 302905, 1564345; 302891, 1564382; 302917, 1564467; 302950, 1564548; 303012, 1564647;

303033, 1564728; 303060, 1564765; 303059, 1564787; 303044, 1564799; 303024, 1564795; 302973, 1564763; 302909, 1564709; 302872, 1564700; 302839, 1564684; 302751, 1564683; 302736, 1564669; 302709, 1564620; 302682, 1564601; 302570, 1564563; 302481, 1564539; 302458, 1564528; 302444, 1564509; 302424, 1564435; 302401, 1564389; 302386, 1564348; 302375, 1564301; 302378, 1564265; 302374, 1564251; 302287, 1564174; 302272, 1564172; 302224, 1564179; 302187, 1564171; 302176, 1564161.

(E) Bounded by the following 319 points (677 ac; 274 ha): 302943, 1564065; 302923, 1564061; 302919, 1564054; 302936, 1564038; 302987, 1564019; 303009, 1563991; 303047, 1563971; 303060, 1563954; 303062, 1563939; 303054, 1563879; 303060, 1563827; 303074, 1563808; 303107, 1563796; 303113, 1563780; 303110, 1563765; 303090, 1563727; 303109, 1563690; 303085, 1563639; 303085, 1563600; 303092, 1563584; 303116, 1563562; 303132, 1563539; 303131, 1563504; 303193, 1563466; 303207, 1563465; 303249, 1563476; 303272, 1563471; 303303, 1563452; 303334, 1563412; 303350, 1563400; 303360, 1563399; 303390, 1563413; 303410, 1563410; 303416, 1563402; 303410, 1563386; 303415, 1563373; 303455, 1563344; 303466, 1563282; 303479, 1563248; 303497, 1563232; 303553, 1563212; 303560, 1563195; 303565, 1563150; 303572, 1563128; 303595, 1563106; 303623, 1563095; 303655, 1563097; 303684, 1563125; 303721, 1563132; 303734, 1563152; 303740, 1563192; 303780, 1563201; 303789, 1563208; 303775, 1563236; 303772, 1563257; 303803, 1563373; 303799, 1563391; 303773, 1563433; 303765, 1563441; 303742, 1563447; 303671, 1563435; 303653, 1563441; 303652, 1563453; 303675, 1563474; 303807, 1563534; 303869, 1563577; 303897, 1563608; 303953, 1563714; 303979, 1563736; 304071, 1563770; 304155, 1563793; 304249, 1563795; 304335, 1563782; 304405, 1563794; 304429, 1563789; 304479, 1563751; 304493, 1563746; 304582, 1563737; 304624, 1563741; 304690, 1563727; 304750, 1563734; 304786, 1563719; 304794, 1563708; 304794, 1563686; 304765, 1563636; 304758, 1563605; 304723, 1563588; 304708, 1563573; 304683, 1563490; 304667, 1563465; 304657, 1563459; 304641, 1563459; 304611, 1563483; 304586, 1563482; 304570, 1563497; 304531, 1563517; 304489, 1563530; 304474, 1563529; 304461, 1563512; 304434, 1563423; 304413, 1563389; 304385, 1563357; 304367, 1563345; 304338, 1563334; 304314,

1563311; 304244, 1563308; 304171, 1563273; 304107, 1563257; 304013, 1563250; 303998, 1563253; 303964, 1563283; 303940, 1563294; 303926, 1563349; 303874, 1563345; 303858, 1563339; 303850, 1563329; 303844, 1563275; 303852, 1563237; 303892, 1563228; 303950, 1563198; 303968, 1563194; 303990, 1563158; 304018, 1563160; 304049, 1563155; 304099, 1563163; 304201, 1563127; 304213, 1563109; 304216, 1563048; 304223, 1563035; 304234, 1563028; 304252, 1563031; 304314, 1563067; 304321, 1563065; 304324, 1563051; 304332, 1563043; 304394, 1563024; 304397, 1563008; 304383, 1562960; 304388, 1562898; 304391, 1562885; 304406, 1562879; 304436, 1562896; 304481, 1562945; 304494, 1562947; 304563, 1562939; 304607, 1562972; 304674, 1563009; 304740, 1563024; 304799, 1563053; 304847, 1563054; 304864, 1563059; 304873, 1563073; 304875, 1563091; 304856, 1563155; 304857, 1563163; 304877, 1563174; 304911, 1563180; 304931, 1563177; 304955, 1563165; 304966, 1563164; 305029, 1563211; 305036, 1563224; 305037, 1563241; 305026, 1563279; 305044, 1563311; 305043, 1563342; 305006, 1563380; 304967, 1563439; 304948, 1563446; 304902, 1563445; 304892, 1563451; 304895, 1563457; 304926, 1563472; 304937, 1563482; 304942, 1563501; 304936, 1563514; 304918, 1563519; 304883, 1563494; 304868, 1563502; 304862, 1563511; 304865, 1563525; 304899, 1563563; 304894, 1563570; 304855, 1563591; 304847, 1563606; 304876, 1563674; 304887, 1563732; 304894, 1563743; 304911, 1563750; 304920, 1563748; 304943, 1563727; 304977, 1563752; 305046, 1563746; 305062, 1563751; 305081, 1563784; 305100, 1563805; 305149, 1563831; 305164, 1563844; 305205, 1563919; 305255, 1563967; 305269, 1563987; 305269, 1564034; 305279, 1564060; 305293, 1564075; 305325, 1564089; 305336, 1564100; 305325, 1564120; 305311, 1564131; 305291, 1564139; 305280, 1564149; 305266, 1564195; 305254, 1564212; 305201, 1564236; 305185, 1564253; 305176, 1564277; 305180, 1564335; 305176, 1564354; 305166, 1564368; 305130, 1564386; 305107, 1564406; 305061, 1564482; 304984, 1564553; 304979, 1564566; 304988, 1564594; 304985, 1564605; 304954, 1564615; 304930, 1564637; 304852, 1564669; 304771, 1564722; 304744, 1564766; 304716, 1564763; 304681, 1564794; 304673, 1564810; 304669, 1564832; 304689, 1564912; 304677, 1564981; 304665, 1564999; 304629, 1565015; 304614, 1565043; 304600, 1565052; 304583,

1565047; 304575, 1565037; 304569, 1565014; 304570, 1564995; 304579, 1564967; 304607, 1564940; 304613, 1564924; 304604, 1564909; 304581, 1564899; 304558, 1564896; 304503, 1564900; 304444, 1564919; 304385, 1564919; 304348, 1564928; 304331, 1564937; 304326, 1564948; 304338, 1565014; 304332, 1565017; 304322, 1565011; 304288, 1564957; 304280, 1564975; 304262, 1564978; 304255, 1564985; 304253, 1565027; 304242, 1565034; 304228, 1565035; 304220, 1565029; 304215, 1565012; 304207, 1565004; 304173, 1565015; 304109, 1565006; 304103, 1564998; 304090, 1564952; 304080, 1564937; 304053, 1564920; 303995, 1564904; 303967, 1564847; 303956, 1564836; 303943, 1564836; 303926, 1564850; 303913, 1564855; 303887, 1564852; 303868, 1564842; 303857, 1564820; 303859, 1564799; 303876, 1564791; 303945, 1564781; 303949, 1564777; 303946, 1564767; 303933, 1564756; 303912, 1564752; 303868, 1564759; 303849, 1564756; 303771, 1564713; 303710, 1564691; 303655, 1564659; 303564, 1564631; 303553, 1564633; 303546, 1564643; 303521, 1564743; 303499, 1564757; 303480, 1564756; 303454, 1564736; 303441, 1564711; 303404, 1564670; 303398, 1564657; 303436, 1564543; 303438, 1564509; 303429, 1564479; 303393, 1564423; 303296, 1564316; 303282, 1564278; 303250, 1564261; 303236, 1564193; 303175, 1564150; 303082, 1564137; 303062, 1564125; 303052, 1564107; 303036, 1564092.

(F) Bounded by the following 26 points (20 ac; 8 ha): 304256, 1565414; 304308, 1565357; 304346, 1565330; 304472, 1565298; 304590, 1565251; 304620, 1565250; 304645, 1565261; 304690, 1565255; 304727, 1565280; 304777, 1565289; 304783, 1565297; 304763, 1565363; 304744, 1565464; 304735, 1565486; 304715, 1565507; 304686, 1565508; 304660, 1565521; 304578, 1565501; 304541, 1565485; 304509, 1565451; 304503, 1565402; 304498, 1565394; 304485, 1565388; 304457, 1565388; 304410, 1565414; 304382, 1565421.

(G) Bounded by the following 35 points (11 ac; 4 ha): 305091, 1563607; 305046, 1563577; 305022, 1563553; 305015, 1563522; 305001, 1563499; 305002, 1563487; 305012, 1563476; 305061, 1563454; 305086, 1563459; 305114, 1563484; 305141, 1563495; 305168, 1563525; 305195, 1563534; 305247, 1563543; 305243, 1563575; 305278, 1563639; 305274, 1563687; 305262, 1563722; 305263, 1563729; 305291, 1563736; 305355, 1563721; 305372, 1563721; 305382, 1563732; 305381, 1563761; 305368, 1563775;

305332, 1563784; 305308, 1563782; 305274, 1563768; 305234, 1563743; 305202, 1563707; 305158, 1563671; 305150, 1563657; 305149, 1563633; 305132, 1563611; 305115, 1563602. (H) Bounded by the following 18 points (9 ac; 4 ha): 305348, 1565123; 305320, 1565080; 305322, 1565051; 305361, 1565002; 305416, 1564959; 305431, 1564953; 305452, 1564953; 305503, 1564970; 305537, 1564975; 305554, 1564987; 305570, 1565010; 305577, 1565037; 305570, 1565071; 305550, 1565102; 305523, 1565121; 305499, 1565129; 305412, 1565142; 305390, 1565140.

(I) Bounded by the following 96 points (52 ac, 21 ha): 305681, 1564571; 305654, 1564580; 305620, 1564578; 305565, 1564595; 305547, 1564592; 305537, 1564571; 305532, 1564484; 305527, 1564469; 305511, 1564467; 305502, 1564474; 305486, 1564499; 305467, 1564500; 305456, 1564489; 305453, 1564478; 305455, 1564431; 305458, 1564418; 305469, 1564405; 305527, 1564420; 305567, 1564424; 305612, 1564419; 305641, 1564401; 305646, 1564382; 305644, 1564358; 305620, 1564264; 305626, 1564238; 305640, 1564232; 305731, 1564234; 305750, 1564230; 305757, 1564225; 305745, 1564207; 305722, 1564193; 305699, 1564192; 305645, 1564203; 305623, 1564195; 305619, 1564181; 305622, 1564158; 305646, 1564097; 305677, 1564083; 305781, 1564061; 305789, 1564055; 305793, 1564024; 305819, 1563988; 305881, 1563974; 305897, 1563964; 305938, 1563897; 305946, 1563858; 305951, 1563774; 305948, 1563696; 305939, 1563637; 305922, 1563609; 305861, 1563583; 305831, 1563543; 305806, 1563520; 305798, 1563498; 305837, 1563315; 305862, 1563291; 305893, 1563286; 305902, 1563291; 305907, 1563301; 305906, 1563358; 305950, 1563453; 305953, 1563477; 305949, 1563508; 305954, 1563523; 305960, 1563526; 305994, 1563522; 306046, 1563531; 306057, 1563540; 306063, 1563555; 306110, 1563573; 306118, 1563592; 306118, 1563606; 306105, 1563642; 306071, 1563662; 306059, 1563682; 306062, 1563709; 306080, 1563772; 306077, 1563819; 306064, 1563889; 306006, 1564047; 306002, 1564117; 305990, 1564133; 305961, 1564145; 305848, 1564153; 305822, 1564158; 305803, 1564170; 305793, 1564191; 305793, 1564205; 305832, 1564256; 305838, 1564283; 305835, 1564313; 305821, 1564340; 305807, 1564356; 305712, 1564414; 305673, 1564451; 305665, 1564483.

(J) Bounded by the following 134 points (92 ac; 37 ha): 306267, 1565331; 306353, 1565325; 306341, 1565326;

306400, 1565325; 306433, 1565329; 306453, 1565341; 306484, 1565382; 306514, 1565388; 306559, 1565384; 306598, 1565356; 306621, 1565346; 306716, 1565329; 306720, 1565333; 306720, 1565374; 306729, 1565422; 306716, 1565443; 306684, 1565448; 306681, 1565467; 306688, 1565481; 306699, 1565487; 306755, 1565496; 306816, 1565485; 306955, 1565429; 307014, 1565397; 307111, 1565330; 307119, 1565340; 307118, 1565350; 307055, 1565408; 307034, 1565438; 307017, 1565445; 307005, 1565460; 306968, 1565468; 306955, 1565488; 306957, 1565495; 306969, 1565498; 307025, 1565488; 307029, 1565496; 307026, 1565526; 307050, 1565540; 307066, 1565542; 307204, 1565460; 307258, 1565412; 307269, 1565394; 307276, 1565368; 307288, 1565356; 307369, 1565327; 307451, 1565259; 307509, 1565229; 307537, 1565210; 307570, 1565178; 307610, 1565126; 307746, 1565004; 307839, 1564896; 307872, 1564877; 307878, 1564878; 307882, 1564884; 307884, 1564905; 307873, 1564932; 307783, 1565058; 307734, 1565112; 307580, 1565259; 307319, 1565473; 307080, 1565610; 307035, 1565624; 307014, 1565621; 306976, 1565592; 306934, 1565568; 306887, 1565525; 306868, 1565520; 306815, 1565528; 306718, 1565559; 306626, 1565562; 306510, 1565585; 306399, 1565586; 306337, 1565579; 306331, 1565589; 306345, 1565658; 306354, 1565736; 306349, 1565806; 306352, 1565829; 306383, 1565896; 306399, 1565902; 306440, 1565898; 306438, 1565928; 306417, 1565948; 306391, 1565949; 306277, 1565911; 306256, 1565896; 306205, 1565844; 306173, 1565823; 306154, 1565817; 306115, 1565820; 306094, 1565817; 306042, 1565781; 305989, 1565708; 305972, 1565692; 305953, 1565683; 305910, 1565671; 305870, 1565667; 305844, 1565673; 305795, 1565705; 305766, 1565717; 305719, 1565718; 305693, 1565710; 305684, 1565703; 305674, 1565679; 305677, 1565641; 305689, 1565625; 305724, 1565609; 305766, 1565605; 305890, 1565626; 305937, 1565602; 305969, 1565601; 305988, 1565595; 306002, 1565572; 305991, 1565555; 305968, 1565549; 305920, 1565551; 305909, 1565543; 305911, 1565530; 305918, 1565520; 305951, 1565499; 305972, 1565493; 306026, 1565498; 306076, 1565493; 306107, 1565505; 306133, 1565507; 306178, 1565494; 306219, 1565475; 306231, 1565463; 306221, 1565427; 306232, 1565386; 306235, 1565356; 306242, 1565346.

(K) Bounded by the following 207 points (355 ac, 144 ha): 305824,

1565279; 305789, 1565258; 305784, 1565251; 305785, 1565239; 305801, 1565217; 305929, 1565095; 305932, 1565086; 305918, 1565072; 305912, 1565059; 305919, 1565045; 306024, 1564981; 306114, 1564950; 306143, 1564935; 306189, 1564892; 306228, 1564832; 306234, 1564811; 306232, 1564774; 306229, 1564764; 306218, 1564755; 306172, 1564745; 306107, 1564754; 306095, 1564751; 306119, 1564647; 306140, 1564643; 306179, 1564618; 306271, 1564573; 306302, 1564551; 306326, 1564524; 306369, 1564511; 306391, 1564451; 306411, 1564417; 306416, 1564385; 306451, 1564361; 306476, 1564320; 306512, 1564285; 306520, 1564269; 306525, 1564238; 306571, 1564226; 306588, 1564168; 306658, 1564143; 306684, 1564127; 306701, 1564108; 306706, 1564092; 306702, 1564075; 306686, 1564051; 306674, 1564042; 306639, 1564039; 306558, 1564052; 306546, 1564039; 306554, 1564023; 306591, 1564006; 306708, 1563983; 306772, 1563964; 306791, 1563953; 306807, 1563932; 306831, 1563941; 306861, 1563968; 306910, 1563986; 306925, 1563998; 306936, 1564022; 306933, 1564035; 306884, 1564066; 306859, 1564062; 306794, 1564101; 306774, 1564120; 306763, 1564146; 306750, 1564158; 306777, 1564193; 306784, 1564210; 306782, 1564217; 306757, 1564222; 306745, 1564235; 306741, 1564248; 306773, 1564278; 306794, 1564357; 306816, 1564376; 306835, 1564377; 306852, 1564364; 306910, 1564341; 306916, 1564308; 306925, 1564297; 307000, 1564277; 307031, 1564262; 307039, 1564252; 307050, 1564208; 307116, 1564160; 307174, 1564088; 307185, 1564080; 307219, 1564074; 307238, 1564065; 307248, 1564043; 307255, 1564008; 307253, 1563934; 307259, 1563908; 307274, 1563879; 307331, 1563809; 307374, 1563769; 307448, 1563710; 307474, 1563696; 307493, 1563692; 307505, 1563698; 307521, 1563719; 307540, 1563768; 307549, 1563778; 307559, 1563772; 307590, 1563724; 307608, 1563710; 307626, 1563711; 307655, 1563727; 307685, 1563724; 307698, 1563711; 307703, 1563696; 307696, 1563628; 307702, 1563589; 307723, 1563542; 307734, 1563528; 307744, 1563523; 307756, 1563524; 307765, 1563534; 307774, 1563582; 307787, 1563600; 307825, 1563608; 307844, 1563604; 307852, 1563596; 307861, 1563558; 307867, 1563553; 307889, 1563564; 307923, 1563593; 307927, 1563604; 307921, 1563627; 307936, 1563675; 307930, 1563733; 307920,

1563742; 307883, 1563736; 307879, 1563783; 307884, 1563800; 307893, 1563814; 307944, 1563854; 307971, 1563870; 307982, 1563901; 307992, 1563990; 307991, 1564149; 307988, 1564195; 307974, 1564273; 307965, 1564280; 307951, 1564281; 307936, 1564279; 307930, 1564273; 307920, 1564120; 307913, 1564102; 307888, 1564066; 307881, 1564043; 307884, 1564018; 307901, 1563976; 307896, 1563936; 307882, 1563914; 307855, 1563892; 307833, 1563882; 307738, 1563862; 307724, 1563851; 307698, 1563804; 307679, 1563790; 307668, 1563794; 307660, 1563807; 307651, 1563877; 307626, 1563911; 307620, 1563912; 307613, 1563901; 307620, 1563870; 307614, 1563851; 307589, 1563831; 307560, 1563832; 307551, 1563859; 307524, 1564171; 307536, 1564245; 307536, 1564274; 307529, 1564301; 307479, 1564419; 307468, 1564503; 307434, 1564587; 307418, 1564611; 307388, 1564640; 307359, 1564686; 307320, 1564721; 307306, 1564740; 307271, 1564752; 307259, 1564762; 307248, 1564802; 307235, 1564826; 307155, 1564929; 307101, 1565031; 306941, 1565211; 306880, 1565237; 306617, 1565317; 306574, 1565313; 306447, 1565277; 306389, 1565255; 306296, 1565255; 306259, 1565250; 306194, 1565223; 306169, 1565231; 306155, 1565256; 306145, 1565262; 306028, 1565253; 305991, 1565246; 305927, 1565246; 305867, 1565253.

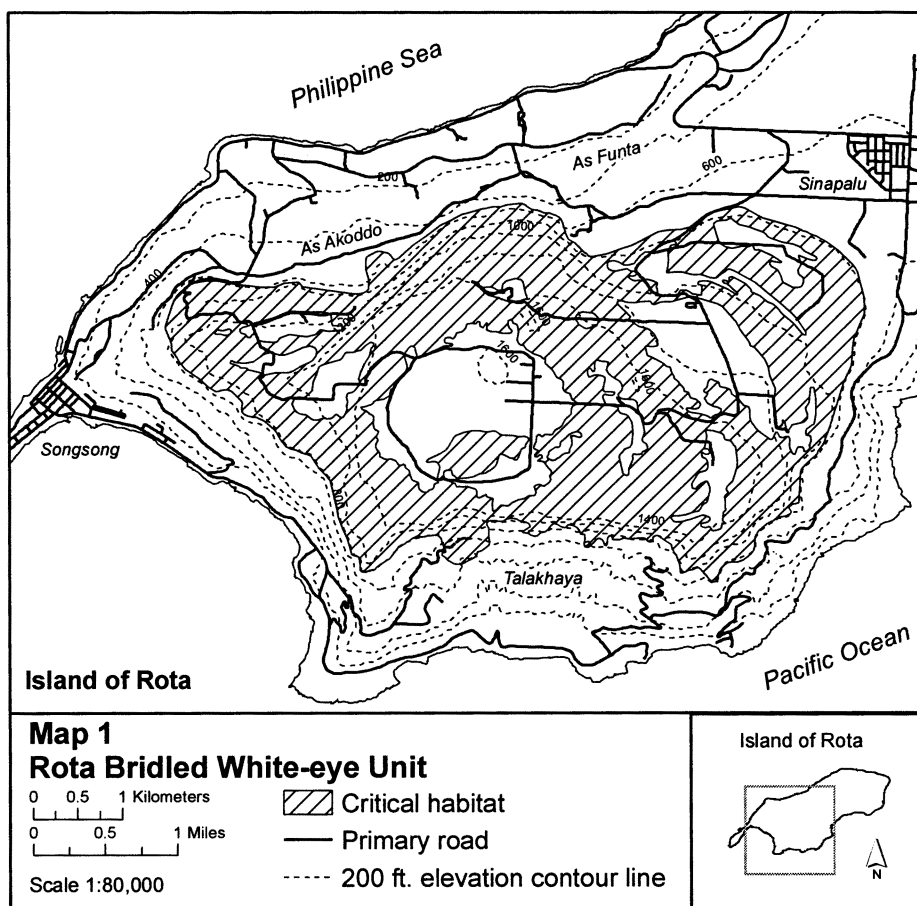
(L) Bounded by the following 107 points (81 ac, 33 ha): 306372, 1562797; 306403, 1562764; 306427, 1562755; 306453, 1562754; 306508, 1562763; 306586, 1562785; 306716, 1562834; 306746, 1562833; 306800, 1562809; 306806, 1562794; 306805, 1562779; 306797, 1562766; 306785, 1562758; 306715, 1562738; 306706, 1562725; 306708, 1562711; 306724, 1562696; 306753, 1562687; 306769, 1562689; 306785, 1562702; 306796, 1562704; 306807, 1562695; 306827, 1562660; 306836, 1562654; 306883, 1562662; 306923, 1562677; 306933, 1562691; 306933, 1562707; 306939, 1562720; 306971, 1562743; 306951, 1562767; 306947, 1562793; 306958, 1562864; 306987, 1562890; 306977, 1562913; 306976, 1562986; 306970, 1563033; 306978, 1563053; 307007, 1563079; 307014, 1563093; 306993, 1563114; 306991, 1563142; 307005, 1563172; 307041, 1563196; 307061, 1563224; 307109, 1563376; 307115, 1563433; 307101, 1563555; 307090, 1563605; 307081, 1563625; 307041, 1563678; 306975, 1563692; 306968, 1563704;

306961, 1563741; 306940, 1563760; 306895, 1563780; 306846, 1563792; 306781, 1563803; 306764, 1563798; 306762, 1563787; 306773, 1563735; 306750, 1563589; 306754, 1563583; 306775, 1563588; 306787, 1563583; 306803, 1563565; 306805, 1563550; 306795, 1563527; 306784, 1563519; 306758, 1563521; 306724, 1563550; 306718, 1563548; 306714, 1563525; 306726, 1563496; 306757, 1563475; 306774, 1563453; 306785, 1563420; 306786, 1563371; 306775, 1563350; 306757, 1563337; 306692, 1563316; 306669, 1563300; 306622, 1563226; 306605, 1563190; 306604, 1563169; 306612, 1563144; 306622, 1563134; 306639, 1563129; 306654, 1563136; 306676, 1563170; 306707, 1563193; 306752, 1563216; 306766, 1563218; 306780, 1563215; 306800, 1563165; 306808, 1563115; 306774, 1562987; 306764, 1562973; 306739, 1562961; 306723, 1562946; 306693, 1562893; 306677, 1562877; 306629, 1562869; 306539, 1562836; 306441, 1562823; 306394, 1562826; 306382, 1562817.

(M) Bounded by the following 69 points (47 ac, 30 ha): 306858, 1566129; 306891, 1566009; 306917, 1565936; 306929, 1565916; 306982, 1565882; 307028, 1565864; 307063, 1565860; 307180, 1565888; 307248, 1565881; 307286, 1565897; 307298, 1565886; 307308, 1565851; 307318, 1565838; 307332, 1565837; 307358, 1565846; 307377, 1565842; 307505, 1565779; 307601, 1565717; 307612, 1565701; 307601, 1565695; 307534, 1565713; 307503, 1565714; 307484, 1565702; 307479, 1565684; 307498, 1565657; 307547, 1565628; 307571, 1565607; 307606, 1565538; 307618, 1565489; 307628, 1565475; 307745, 1565409; 307789, 1565409; 307829, 1565429; 307844, 1565447; 307857, 1565486; 307858, 1565512; 307852, 1565527; 307805, 1565571; 307794, 1565595; 307797, 1565619; 307825, 1565662; 307834, 1565689; 307808, 1565748; 307802, 1565778; 307813, 1565781; 307892, 1565745; 307958, 1565725; 307992, 1565724; 308008, 1565734; 308007, 1565752; 307998, 1565762; 307875, 1565825; 307834, 1565866; 307814, 1565879; 307743, 1565910; 307628, 1565928; 307491, 1565976; 307455, 1565998; 307428, 1566032; 307412, 1566044; 307254, 1566105; 307143, 1566130; 307118, 1566145; 307054, 1566200; 307032, 1566199; 306993, 1566178; 306951, 1566179; 306896, 1566171; 306871, 1566153.

(iii) Note: Map 1 of the critical habitat for Rota bridled white-eye follows:

BILLING CODE 4310-55-P



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Dated: September 5, 2006.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06-7583 Filed 9-11-06; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 060606149-6234-02; I.D. 052506A]

RIN 0648-AT95

Fisheries in the Western Pacific; Omnibus Amendment for the Bottomfish and Seamount Groundfish Fisheries, Crustacean Fisheries, and Precious Coral Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to amend three fishery management plans (FMPs) to include fisheries and waters around the Commonwealth of the Northern Mariana Islands (CNMI) and Pacific Remote Island Areas (PRIA). These amendments affect United States domestic fisheries that offload or operate in Federal waters around the CNMI and the PRIA. These amendments establish new permitting and reporting requirements for vessel operators targeting bottomfish species around the PRIA to improve understanding of the ecology of these species and the activities and harvests of the vessel operators that target them. They also establish new permitting and reporting requirements for vessel operators targeting crustacean species and precious corals around the CNMI and PRIA.

DATES: This final rule is effective October 12, 2006, except for amendments to §§ 665.14, 665.41, and 665.61, which require approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). When OMB approval is received, the effective date will be announced in the **Federal Register**.

ADDRESSES: Copies of the FMP amendments and Environmental Assessment (EA) may be obtained from Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council (WPFMC), 1164 Bishop Street, Suite 1400, Honolulu, HI 96813, or from the web site www.wpcouncil.org. Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this rule may be submitted to William L. Robinson, Regional Administrator, Pacific Islands Region (PIR), NMFS, 1601 Kapiolani Blvd. 1110, Honolulu, HI 96814, or to David Rostker, OMB, by e-mail David_Rostker@omb.eop.gov, or by fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Robert Harman, NMFS PIR, 808-944-2271.

SUPPLEMENTARY INFORMATION:

Electronic Access

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