

**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:** Proposed rule.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), propose to designate 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 proposed critical habitat designation on the island of Rota, Commonwealth of the Northern Mariana Islands (CNMI).

**DATES:** We will consider comments from all interested parties received by November 14, 2005. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by October 31, 2005.

**ADDRESSES:** If you wish to comment, you may submit your comments and materials concerning this proposal by any one of the following methods:

1. You may submit comments and information on this proposed rule to Patrick Leonard, Field Supervisor, Pacific Islands Fish and Wildlife Office (PIFWO), U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, Room 3-122, Box 50088, Honolulu, HI 96850.

2. You may hand-deliver written comments and information to our PIFWO at the address given above.

3. You may send comments by electronic mail (e-mail) to [RBWE\\_CritHab@fws.gov](mailto:RBWE_CritHab@fws.gov). For directions on how to submit electronic filing of comments, see the "Public Comments Solicited" section.

4. You may fax your comments to 808/792-9581.

All comments and materials received, as well as supporting documentation used in preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at our PIFWO at the above address.

**FOR FURTHER INFORMATION CONTACT:** Patrick Leonard, Field Supervisor, PIFWO, at the above address (telephone: 808/792-9400; facsimile: 808/792-9581).

**SUPPLEMENTARY INFORMATION:****Public Comments Solicited**

We intend that any final action resulting from this proposal be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments are particularly sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether the benefit of designation will outweigh any threats to the species due to designation;

(2) Specific information on the amount and distribution of Rota bridled white-eye habitat, and what features are essential to the conservation of the species and why;

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

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities; and

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

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to [RBWE\\_CritHab@fws.gov](mailto:RBWE_CritHab@fws.gov) in ASCII file format and avoid the use of special characters or any form of encryption. Please also include "Attn: Rota bridled white-eye" in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our PIFWO at 808/792-9400. Please note that the Internet address [RBWE\\_CritHab@fws.gov](mailto:RBWE_CritHab@fws.gov) will be closed at the termination of the public comment period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the rulemaking record, which we will

honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**Designation of Critical Habitat Provides Little Additional Protection to Species**

In 30 years of implementing the Act, the Service has found that the designation of statutory critical habitat provides little additional protection to most listed species, while consuming significant amounts of available conservation resources. The Service's present system for designating critical habitat has evolved since its original statutory prescription into a process that provides little real conservation benefit, is driven by litigation and the courts rather than biology, limits our ability to fully evaluate the science involved, consumes enormous agency resources, and imposes huge social and economic costs. 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.

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

While attention to and protection of habitat is paramount to successful conservation actions, we have consistently found that in most circumstances, the designation of critical habitat is of little additional value for most listed species, yet it consumes large amounts of conservation resources. Sidle (1987) stated, "Because the Act can protect species with and without critical habitat designation, critical habitat designation may be redundant to the other consultation requirements of section 7." Currently, only 473 species, or 37 percent of the 1,264 listed species in the U.S. under the jurisdiction of the Service, have designated critical habitat.

We address the habitat needs of all 1,264 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, and the Section 10 incidental take permit process. The Service believes that it is these measures that may make the difference between extinction and survival for many species.

We note, however, that two courts found our definition of adverse modification to be invalid (March 15, 2001, decision of the United States Court Appeals for the Fifth Circuit, *Sierra Club v. U.S. Fish and Wildlife Service et al.*, F.3d 434, and the August 6, 2004, Ninth Circuit judicial opinion, *Gifford Pinchot Task Force v. United States Fish and Wildlife Service*). In response to these decisions, we are reviewing the regulatory definition of adverse modification in relation to the conservation of the species.

#### **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 (NOIs) 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 almost no ability to provide for adequate 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, is very expensive, and in the final analysis provides relatively little additional protection to listed 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). None of these costs result in any benefit to the species that is not already afforded by the protections of the Act enumerated earlier, and they directly reduce the funds available for direct and tangible conservation actions.

#### **Background**

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this proposed 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 Action**

We published the final rule to list the Rota bridled white-eye as endangered in the **Federal Register** on January 22, 2004 (69 FR 3022). This listing was based on a variety of factors including habitat loss and degradation, avian disease, introduced predators, and pesticides. A final recovery plan for this species has not yet been completed. However, a recovery plan is being drafted, and a recovery outline was completed and signed by the Regional Director on October 25, 2004 (Service 2004).

At the time of listing, we concluded that designating critical habitat for the Rota bridled white-eye was prudent and that we would publish a proposed rule in accordance with other priority listing actions when funding became available. On May 20, 2004, a lawsuit was filed against the Department of Interior (DOI) and the Service by the Center for Biological Diversity challenging our failure to propose critical habitat for the Rota bridled white-eye. On September 14, 2004, a stipulated settlement agreement was filed in the U.S. District Court for Hawaii (*Center for Biological Diversity v. Norton*, Case No. C-04-00326 SPK LEK) stating that the Service will submit for publication in the **Federal Register** a proposed critical habitat designation for the Rota bridled white-eye no later than September 7, 2005, and a final critical habitat designation no later than September 7,

2006. Between March 10 and 15, 2005, the Service met with resource managers on Rota and Saipan to obtain additional information on management activities and suitability of certain habitat areas for the Rota bridled white-eye. For more information on previous Federal actions, see the final listing rule (January 22, 2004; 69 FR 3022).

#### **Critical Habitat**

Critical habitat is defined in section 3 of the Act as—(i) The specific areas within the geographic area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. “Conservation” means the use of all methods and procedures that are necessary to bring an endangered or a threatened species to the point at which listing under the Act is no longer necessary.

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 consultation on Federal actions that are likely to result in the destruction or adverse modification of 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 and commercial 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 the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant

to section 4(b)(2).) Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species so require, we will not designate critical habitat in areas outside the geographic area occupied by the species at the time of listing. An area currently occupied by the species but was not known to be occupied at the time of listing will likely be essential to the conservation of the species, and therefore, 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 and commercial data available. They require Service biologists to the extent consistent with the Act and with the use of the best scientific and commercial 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 the Commonwealth and local government, 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 what we know at the time of designation. 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.

### Methods

As required by section 4(b)(1)(A) of the Act, we use the best scientific and commercial data available in determining areas that are essential to the conservation of the Rota bridled white-eye. We have also reviewed available information that pertains to the habitat requirements of the species. This information included: peer-reviewed scientific publications (*e.g.*, Craig and Taisacan 1994; Fancy and Snetsinger 2001; Amidon *et al.* 2004); the final listing rule (January 22, 2004; 69 FR 3022); unpublished reports by the CNMI Division of Fish and Wildlife (DFW) and Service (Engbring *et al.* 1986; Engbring 1987; Reichel and Glass 1988; Engbring 1989); aerial photographs and satellite imagery of Rota; personal communications with scientists and resource managers familiar with the species and habitats; and information obtained during meetings with CNMI officials. Specific information we used from these sources includes estimates of historical and current distribution and abundance, as well as data on resource and habitat requirements. We also considered possible recovery objectives and assessments of habitat necessary to meet these objectives.

### 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 propose as critical habitat, we are required to base critical habitat determinations on the best scientific and commercial data available and to consider those physical and biological

features (primary constituent elements (PCEs)) that are essential to the conservation of the species, and 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.

Since the first islandwide forest bird survey in 1982, Rota bridled white-eyes have been recorded primarily above 490 feet (ft) (150 meters (m)) elevation in the Sabana region, the large plateau located in the south-central portion of Rota (Engbring *et al.* 1986; Engbring 1987; Engbring 1989; Amidon 2000; Fancy and Snetsinger 2001; USFWS unpubl. data). Sightings of Rota bridled white-eyes have been recorded in limestone forest (*i.e.*, native forest growing on a limestone substrate), introduced *Acacia confusa* (sosugi) forest, introduced *Leucaena leucocephala* (tangantangan) forest, and secondary vegetation (Craig and Taisacan 1994; Amidon 2000; Fancy and Snetsinger 2001; Amidon unpubl. data). However, the majority of the Rota bridled white-eye sightings have been recorded in limestone forest. For example, of the survey stations where Rota bridled white-eyes were detected in 1982 ( $n = 44$  stations) (Engbring *et al.* 1986) and 1987 ( $n = 24$ ) (Engbring 1987), 89 percent ( $n = 39$ ) of the stations in 1982 and 79 percent ( $n = 19$ ) of the stations in 1987 were classified as limestone forest within 160 ft (50 m) of the survey station by Falanruw *et al.* (1989). Of the remaining stations with Rota bridled white-eye detections in 1982, 8 percent ( $n = 4$ ) were in areas with mixed vegetation types that included some limestone forest and 2 percent ( $n = 1$ ) were in forest other habitat types (*e.g.*, *Cocos nucifera* (coconut palm) plantation and secondary vegetation). Of the remaining stations with Rota bridled white-eye detections in 1987, 21 percent ( $n = 5$ ) were in areas with mixed vegetation types that included some limestone forest. Further, of the stations with Rota bridled white-eye detections in limestone forest in 1982 ( $n = 39$ ) and 1987 ( $n = 19$ ), over 60 percent of the areas were dominated by mature limestone forest with large diameter trees ( $> 30$  centimeters [cm] diameter at breast height [dbh];  $> 12$  inches [in] dbh), high density, and over 70 percent

canopy cover (Falanruw *et al.* 1989). A similar pattern observed during the 1996 survey by Fancy and Snetsinger (2001) was that 73 percent of the white-eye locations (n = 62) were recorded in areas classified as mature limestone forest by Falanruw *et al.* (1989).

In 1998 and 1999, Rota bridled white-eye abundance and habitat relationships were assessed within their current range and across the Sabana region as part of a two-year study by Amidon (2000). Forested areas with high densities of Rota bridled white-eyes ( $\geq 2$  white-eyes per ha) had relatively high epiphytic plant volumes (approximately 11 percent versus 5 percent in lower-density areas), such as *Asplenium nidus* and *Davallia solida*, and were primarily composed of *Elaeocarpus joga* (yoga), *Hernandia labyrinthica* (oschal), *Merrilliodendron megacarpum* (faniok), *Pandanus tectorius* (kafu), and *Premna obtusifolia* (ahgao) trees. Other tree species that were regularly recorded in Rota bridled white-eye high density areas include *Aglaia mariannensis* (mapunyo), *Artocarpus atilis* (lemai), *Ficus prolixa* (nunu), *F. tinctoria* (hodda), *Guettarda speciosa* (panao), *Macaranga thompsonii* (pengua), and *Pisonia umbellifera*. Within the Rota bridled white-eye's range, white-eyes were found to be more abundant in areas with higher densities of yoga and were also positively correlated with the abundance of faniok. In addition, white-eyes were found to be more abundant across the Sabana in areas with high densities of oschal and where groundcover species of *Elatostema* and *Procris* spp. were present.

Rota bridled white-eyes primarily feed on insects, which are typically gleaned from the leaves and branches of trees in the forest canopy (Craig and Taisacan 1994; Amidon 2000). Of 97 systematically recorded observations of Rota bridled white-eyes foraging, the majority of observations were reported in yoga (34 percent), oschal (13 percent), pengua (10 percent), faniok (9 percent), and ahgao (9 percent) trees (Amidon 2000; F. Amidon, unpubl. data). However, Rota bridled white-eye were also recorded foraging in *Pipturus argenteus* (amahadyan), *Persea americana* (avocado), panao, hodda, sosugi, mapunyo, *Eugenia thompsonii* (atoto), nunu, *Tarennia sambucina* (sumac-lada), and *Tristiropsis obtusangula* trees and *Bambusa vulgaris* (piao) (F. Amidon, unpubl. data). Of these species, only sosugi, avocado, and piao are not native to the island of Rota (Raulerson and Rinehart 1991). In addition, two of these species, oschal and faniok, are found only on Rota in the Sabana region (Amidon 2000). Rota

bridled white-eyes have also been observed foraging on the fruits of amahadyan and pengua trees and probing the flowers, presumably to feed on nectar of yoga, oschal, pengua, avocado, ahgao, and atoto trees (F. Amidon, unpubl. data).

Rota bridled white-eyes have been reported nesting in oschal (n = 7 nests), yoga (n = 7), faniok (n = 5), and sosugi (n = 3) between 1,050 and 1,509 ft (320 and 460 m) elevation (Lusk and Taisacan 1997; Amidon *et al.* 2004; F. Amidon, unpubl. data). Pratt (1985) also reported finding a nest in a *Hernandia* sp. tree (presumably oschal based on the location where the nest was found). Nest heights above the ground for 23 nests ranged from 9 to 43 ft (3 to 13 m) with an average height of 26 ft (8 m) (Pratt 1985; Lusk and Taisacan 1997; Amidon *et al.* 2004). The height of 18 nest trees ranged from 9 to 49 ft (3 to 15 m) with an average height of 33 ft (10 m) and the mean diameter at breast height (dbh) for 19 nest trees ranged from 1 to 20 in (2 to 50 cm) with an average diameter of 11 in (28 cm) (Pratt 1985; Lusk and Taisacan 1997; and Amidon *et al.* 2004). The majority of the nests (87 percent, n = 20 nests) were found in areas classified as limestone forest (Falanruw *et al.* 1989). However, nesting was also recorded in sosugi forest, which is dominated by sosugi trees and is found on volcanic soils in the Sabana region. This forest type has a very limited distribution and encompasses approximately 42 ac (17 ha) of the Sabana region.

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, nesting, and rearing of young are:

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

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

(b) 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) dbh for nesting.

## Criteria Used To Identify Critical Habitat

We considered several factors in identifying and selecting lands proposed 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) 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) and silvereyes (*Zosterops lateralis*) (Kikkawa and Wilson 1983; Catterall *et al.* 1989) 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. 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 (Kikkawa and Wilson 1983; Catterall *et al.* 1989; van Riper 2000; Reed *et al.* 2003; USFWS in prep.). 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) and 1999 (Amidon 2000) surveys.

The maximum Rota bridled white-eye densities recorded by Fancy and Snetsinger (2001) in 1996, and Amidon (2000) in 1999, were approximately 3 and 4 white-eyes per ac (7 and 10 white-eyes 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) estimates were based on a single set of surveys in the Rota bridled white-eye's range involving area searches. The Amidon (2000) estimates 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 white-eyes 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) (Kikkawa and Wilson 1983; Catterall *et al.* 1989; van Riper 2000; Reed *et al.* 2003; USFWS, in prep.) by 4 birds per ac (10 birds 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 approximately how much habitat was essential to the Rota bridled white-eye for the proposed designation.

When selecting areas for proposed 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) and 1999 (Amidon 2000). 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). These areas were prioritized because they contain the primary constituent elements needed by the species and have supported larger white-eye populations. When defining proposed 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 proposing to designate critical habitat on lands that contain the features that are essential to the conservation of the Rota bridled white-eye. As such, these areas have the primary constituent elements described above and were considered to be occupied at the time the species was listed (69 FR 3022; January 22, 2004) (Fancy and Snetsinger 2001). A brief discussion of each area proposed as critical habitat is provided in the unit descriptions below.

#### Special Management Considerations or Protections

When designating critical habitat, we assess whether the features essential for conservation 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 those 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 primary threats to the Rota bridled white-eye are habitat loss and degradation and predation by introduced rats (*Rattus* spp.) and birds (black drongos (*Dicrurus macrocercus*)). 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 final listing rule (69 FR 3022; January 22, 2004).

#### Proposed Critical Habitat Designation

We are proposing one unit as critical habitat of approximately 3,958 ac (1,602 ha) of forested land for the Rota bridled white-eye (see Map 1 in the rule portion of this document). This area, described below, constitutes our best assessment at this time of the areas we determined to be occupied at the time of listing, contain the primary constituent elements, may require special management, and contain the features essential to the conservation of the Rota bridled white-eye. 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) contains the high-density areas identified by Fancy and Snetsinger (2001), as the only known nesting areas for the Rota bridled white-eye (Pratt 1985; Lusk and Taisacan 1997; Amidon *et al.* 2004); and contains the areas where large numbers of Rota bridled white-eyes have been regularly observed during surveys since 1982.

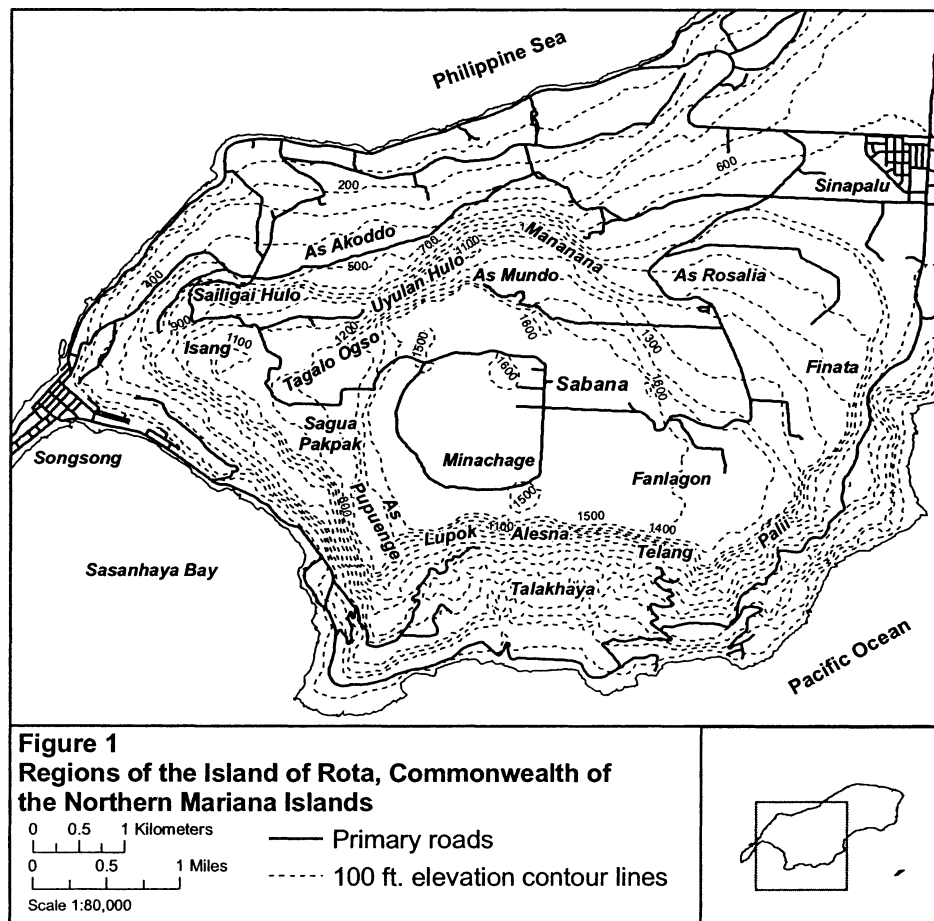
The proposed critical habitat unit includes all or part of the Telang, Pali, Finata, As Rosalia, Fanlagon, Minachage, Mananana, As Mundo, Uyulan Hulo, Isang, Tagalo Ogso, Sagua Pakpak, As Pupuenge, Lupok, and Alesna regions of Rota (Figure 1 below),

which are all considered part of the Sabana region. Each of these individual regions contain or are exposed to the threats to the Rota bridled white-eye (introduced rats, black drongos, and habitat degradation and loss (Engbring *et al.* 1986; Amidon 2000; Fancy and Snetsinger 2001) and require special management (see Special Management Considerations or Protections above). Proposed critical habitat in the Telang and Pali regions includes forested areas between 650 and 1,300 ft (200 and 400 m) elevation. These forested areas include one of the high-density white-eye areas identified by Fancy and Snetsinger (2001) and contain oschal, yoga, and other tree species important to the Rota bridled white-eye (Amidon 2000). Proposed critical habitat in the Finata and As Rosalia regions includes forested areas between 650 and 1,300 ft (200 and 400 m) elevation. These forested areas include one of the high-density white-eye areas identified by Fancy and Snetsinger (2001), locations where Rota bridled white-eyes were observed in 1987 (Engbring 1987), and locations where Rota bridled white-eye nesting was recorded (Amidon *et al.* 2004). These forested areas also contain oschal, yoga, and other tree species and forest components important to the Rota bridled white-eye (Amidon 2000, unpubl. data). Proposed critical habitat in the Fanlagon and Minachage regions includes forested areas between 650 and 1,540 ft (400 and 470 m). These forested areas include locations where large numbers of Rota bridled white-eyes were recorded in 1982 (Engbring *et al.* 1986), 1987 (Engbring 1987), and 1989 (Engbring 1989), and lower numbers were recorded in 1994 (USFWS unpubl. data). These forested areas also contain oschal, yoga, and other trees species and forest components important to the Rota bridled white-eye (Amidon unpubl. data). Proposed critical habitat in the Mananana, As Mundo, and Uyulan Hulo regions includes forested areas between 490 and 1,500 ft (150 and 450 m). These forested areas include two high-density white-eye areas identified by Fancy and Snetsinger (2001), locations where Rota bridled white-eye nesting was recorded (Lusk and Taisacan 1997; Amidon *et al.* 2001), and faniok, oschal, yoga, and other tree species and forest components important to the Rota bridled white-eye (Amidon 2000). Proposed critical habitat in the Isang, Tagalo Ogso, and Sagua Pakpak regions includes forested areas between 650 and 1,300 ft (200 and 400 m). These forested areas include locations where Rota bridled white-eyes were recorded in 1982 (Engbring *et al.* 1986), 1987

(Engbring 1987), and 1989 (Engbring 1989), and oschal, yoga, and other tree species and forest components important to the Rota bridled white-eye (Amidon 2000, unpubl. data). Proposed critical habitat in the As Pupuenge, Lupok, and Alesna regions includes

forested areas between approximately 650 and 1,500 ft (200 and 450 m). These forested areas include a high-density white-eye area identified by Fancy and Snetsinger (2001) and locations where Rota bridled white-eye nesting was recorded (Pratt 1985; Amidon *et al.*

2001). These forested areas also include oschal, yoga, sosugi, and other tree species and forest components important to the Rota bridled white-eye (Amidon 2000, unpubl. data).



## 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 response to the Ninth Circuit's decision on *Gifford Pinchot*, the Service has provided direction regarding the analysis of adverse modification of critical habitat. 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." We are currently reviewing the regulatory definition of adverse modification in relation to the conservation of 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. Conference reports provide conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. We may issue a formal conference report if requested by a Federal agency. Formal conference reports on proposed critical habitat contain an opinion that is prepared

according to 50 CFR 402.14, as if critical habitat were designated. We may adopt the formal conference report as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). The conservation recommendations in a conference report are advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a 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. Through this consultation, the action agency ensures that their actions

do not destroy or adversely modify critical habitat.

If we issue a biological opinion concluding that a project is likely to result in 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, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid 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 critical habitat is subsequently designated 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 or conference with us on actions for which formal consultation has been completed, if those actions may affect designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the Rota bridled white-eye or its critical habitat will require section 7 consultation. Activities on private or Commonwealth lands requiring a permit from a Federal agency, such as a permit from the U.S. Army Corps of Engineers under section 404 of the Clean Water Act, a section 10(a)(1)(B) permit from the Service, or some other Federal action, including funding (e.g., Federal Highway Administration or Federal Emergency Management Agency funding), will also continue to be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat and actions on non-Federal and private lands that are not Federally funded, authorized, or permitted do not require section 7 consultation.

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 Rota bridled white-eye. Federal activities that, when carried out, may adversely affect critical habitat 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 fires. 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 (tree uprooting, limb damage, etc.) of typhoons 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, like *Coccinia grandis* (scarlet gourd), which inhibit the natural regeneration of native forest utilized by Rota bridled white-eyes for breeding and foraging.

We consider the entire critical habitat unit to be occupied by the species because it contains the high-, low-, and very-low density white-eye areas identified by Fancy and Snetsinger (2001; note: authors did not identify any medium-density areas) and areas where white-eyes were reported by Amidon (2000) in 1998 and 1999.

#### **Application of Section 3(5)(A) and Exclusions Under Section 4(b)(2) of the Act**

Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographic area occupied by the species on which are found those physical and biological features (i) essential to the conservation of the species and (ii) which may require special management considerations or protection. Therefore, areas within the geographic area occupied by the species that do not contain the features essential for the conservation of the species are not, by definition, critical habitat. Similarly, areas within the geographic area occupied by the species that do not

require special management or protection also are not, by definition, critical habitat. To determine whether an area requires special management, we first determine if the essential features located there generally require special management to address applicable threats. If those features do not require special management, or if they do in general but not for the particular area in question because of the existence of an adequate management plan or for some other reason, then the area does not require special management.

We consider a current plan to provide adequate management or protection if it meets three criteria: (1) The plan is complete and provides a conservation benefit to the species (i.e., the plan must maintain or provide for an increase in the species' population, or the enhancement or restoration of its habitat within the area covered by the plan); (2) the plan provides assurances that the conservation management strategies and actions will be implemented (i.e., those responsible for implementing the plan are capable of accomplishing the objectives, and have an implementation schedule and adequate funding for implementing the management plan); and (3) the plan provides assurances that the conservation strategies and measures will be effective (i.e., it identifies biological goals, has provisions for reporting progress, and is of a duration sufficient to implement the plan and achieve the plan's goals and objectives).

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 Rota bridled white-eye are not owned or managed by the Department of Defense and do not include any Tribal lands or trust resources. Although there have been some initial efforts on an islandwide habitat conservation plan, there are currently no habitat conservation plans for the Rota bridled white-eye. In 1994, a local law was passed to set up a conservation area in the Sabana region of Rota (Sabana Conservation Area). This law required that regulations be developed for the management of the conservation area. In 1995, a Sabana Protected Area Committee was established to develop a management plan and regulations for the area. An initial plan was completed in 1996, but was not implemented because the regulations required to manage the area were not promulgated. At this time no regulations for management of this area have been



developed, and the management plan is now considered obsolete.

We anticipate no impact to national security, Tribal lands, partnerships, or habitat conservation plans from this critical habitat designation.

### Economic Analysis

An analysis of the economic impacts of proposed critical habitat for the Rota bridled white-eye will be prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at <http://pacificislands.fws.gov>, or by contacting the Pacific Islands Fish and Wildlife Office directly (see **ADDRESSES** section).

### Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send these peer reviewers copies of this proposed rule immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and scientific conclusions relevant to the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

### Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

### 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 proposed rule easier to understand,

including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed 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 proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed 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@iod.doi.gov](mailto:Exsec@iod.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 and policy issues, but it is not anticipated to 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. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The availability of the draft economic analysis will be announced in the **Federal Register** so that it is available for public review and comments. The draft economic analysis can be obtained from the Internet Web site at <http://www.fws.gov/pacific/pacificislands/> or by contacting the Pacific Islands Fish and Wildlife Office directly (see **ADDRESSES** section).

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

Our assessment of economic effect will be completed prior to final rulemaking based upon review of the economic analysis prepared pursuant to section 4(b)(2) of the Act and Executive Order 12866. This analysis is for the purposes of compliance with the Regulatory Flexibility Act and does not reflect our position on the type of economic analysis required by *New Mexico Cattle Growers Assn. v. U.S. Fish and Wildlife Service* 248 F.3d 1277 (10th Cir. 2001).

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), 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 effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the Act and Executive Order 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the



RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

#### *Executive Order 13211*

On May 18, 2001, the President issued an Executive Order (E.O.) 13211 on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed rule to designate critical habitat for the Rota bridled white-eye is not a significant regulatory action under E.O. 12866, and it 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), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State/Commonwealth, 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/Commonwealth, 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/Commonwealth, 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, or permits, or that otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above to State/Commonwealth governments.

(b) Due to current public knowledge of the species' protection, the prohibition against take of the species both within and outside of the designated areas, and the fact that critical habitat provides no incremental restrictions, we do not anticipate that this rule will significantly or uniquely affect small governments. As such, Small Government Agency Plan is not required. We will, however, further evaluate this issue as we conduct our economic analysis and revise this assessment if appropriate.

#### *Federalism*

In accordance with Executive Order 13132, the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with the Department of Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate Commonwealth resource agencies in the CNMI. The designation of critical habitat in areas currently occupied by the Rota bridled white-eye imposes no additional restrictions to those currently in place

and, therefore, has little incremental impact on Commonwealth and local governments and their activities. The designation may have some benefit to these governments in that the areas essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the survival 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 the Commonwealth and 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 have proposed designating critical habitat in accordance with the provisions of the Endangered Species Act. This proposed 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/Commonwealth 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*

It is our position that, outside the Tenth Circuit of the U.S. Court system, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of 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 essential for the conservation of the Rota bridled white-eye. Therefore, designation of critical habitat for the Rota bridled white-eye has not been proposed on Tribal lands.

### References Cited

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

### Author

The primary author of this package is the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section).

### List of Subjects in 50 CFR Part 17

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

### Proposed Regulation Promulgation

Accordingly, we propose to 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" in the List of Endangered and Threatened Wildlife 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 "Rota bridled white-eye (*Zosterops rotensis*)" in the same alphabetical order in which the species appears in the table in § 17.11(h), under "BIRDS" to read as follows:

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

\* \* \* \* \*

(b) Birds.

\* \* \* \* \*

#### Rota Bridled White-eye (*Zosterops rotensis*)

(1) A critical habitat unit is depicted for the island of 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), *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, nesting, and/or rearing of young. In addition, the habitat should contain the specific forest components for foraging or 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 (in) (2 to 60 centimeters (cm)) dbh for nesting.

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

(3) The critical habitat unit description and its map is provided in paragraph (4). Data layers defining map units were created on a base of USGS 7.5' quadrangles, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates.

(4) 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,  
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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,  
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305608, 1565782, 305678, 1565798,  
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307249, 1566295, 307359, 1566230,  
307407, 1566207, 307778, 1566099,  
307843, 1566062, 307898, 1566047,  
307941, 1566020, 307999, 1566003,  
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308260, 1565834, 308407, 1565674,  
308437, 1565635, 308458, 1565596,  
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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,  
305615, 1562544, 305588, 1562564,  
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,

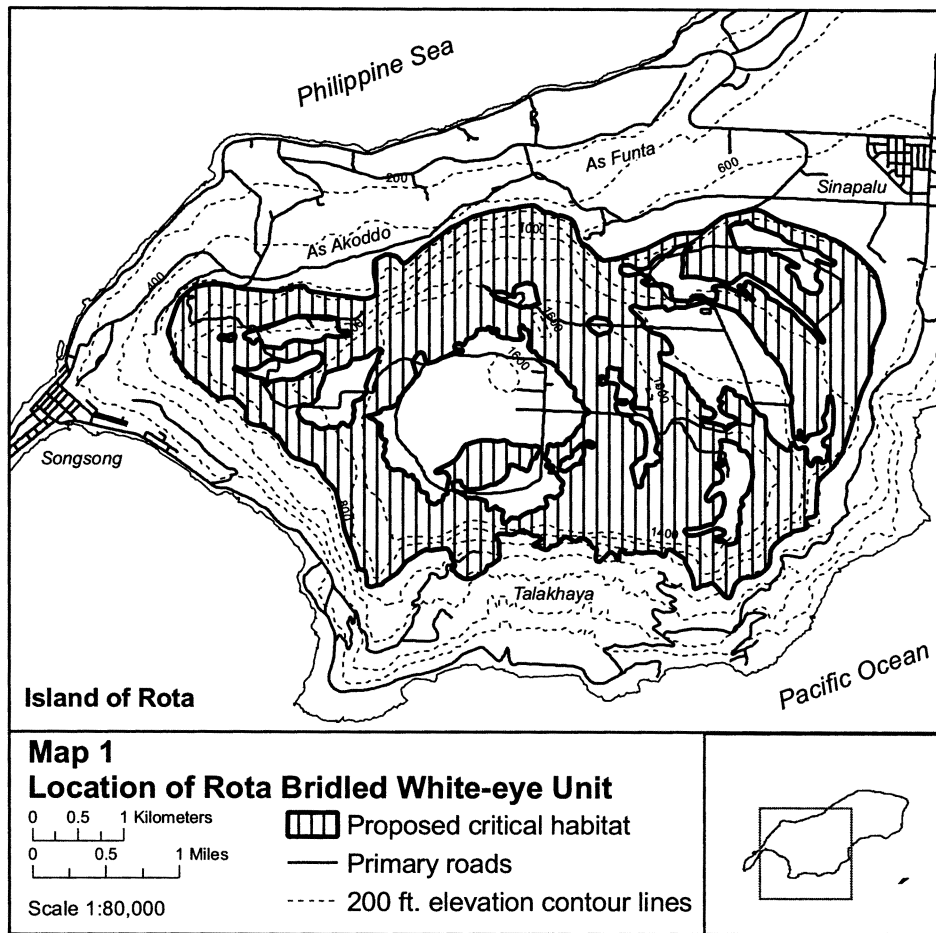
1564611; 307388, 1564640; 307359, 1564686; 307320, 1564721; 307306, 1564740; 307271, 1564752; 307259, 1564762; 307248, 1564802; 307235, 1564826; 307155, 1564929; 307101, 1565031; 306941, 1565211; 306880, 1565237; 306617, 1565317; 306574, 1565313; 306447, 1565277; 306389, 1565255; 306296, 1565255; 306259, 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:



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Dated: September 7, 2005.

**Craig Manson,**

*Assistant Secretary for Fish and Wildlife and Parks.*

[FR Doc. 05-18051 Filed 9-13-05; 8:45 am]

BILLING CODE 4310-55-P