

Federal Communications Commission.

**John A. Karousos,**

*Assistant Chief, Audio Division, Media Bureau.*

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AT93

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

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

**ACTION:** Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period on the proposed designation of critical habitat for the Alameda whipsnake (*Masticophis lateralis euryxanthus*) and the availability of the draft economic analysis of the proposed designation of critical habitat. The draft economic analysis identifies potential costs of approximately \$532 million over a 20-year period, or approximately \$47 million per year, as a result of the proposed designation of critical habitat, including those costs coextensive with listing. If this cost is annualized (adjusted for inflation and value over the time period to equate to an annual cost) over the 20 year period, the potential costs are predicted to be approximately \$47 million per year. We are reopening the comment period to allow all interested parties an opportunity to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this comment period, and will be fully considered in preparation of the final rule.

**DATES:** We will accept public comments until June 5, 2006.

**ADDRESSES:** Written comments and materials may be submitted to us by any one of the following methods:

1. You may submit written comments and information to the Field Supervisor, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W-2605, Sacramento, CA 95825;

2. You may hand-deliver written comments and information to our Sacramento Fish and Wildlife Office, at the above address.

3. You may fax your comments to 916/414-6712; or

4. You may send comments by electronic mail (e-mail) to: [alameda\\_whipsnake@fws.gov](mailto:alameda_whipsnake@fws.gov), or to the Federal eRulemaking Portal at <http://www.regulations.gov>. For directions on how to file comments electronically, see the "Public Comments Solicited" section. In the event that our Internet connection is not functional, please submit your comments by one of the alternate methods mentioned above.

Copies of the draft economic analysis and the proposed rule for critical habitat designation are available on the Internet at <http://www.fws.gov/sacramento> or from the Sacramento Fish and Wildlife Office at the address and contact numbers above.

**FOR FURTHER INFORMATION CONTACT:**

Arnold Roessler, Sacramento Fish and Wildlife Office, at the address listed in **ADDRESSES** (telephone 916/414-6600; facsimile 916/414-6712).

**SUPPLEMENTARY INFORMATION:**

**Public Comments Solicited**

We will accept written comments and information during this reopened comment period. We solicit comments on the original proposed critical habitat designation (70 FR 60608; October 18, 2005) and on our draft economic analysis of the proposed designation. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons why any habitat should or should not be determined to be critical habitat, as provided by section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), including whether the benefits of exclusion outweigh the benefits of including such area as part of critical habitat;

(2) Specific information on the amount and distribution of Alameda whipsnake, and what habitat is essential to the conservation of this species and why;

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

(4) Information on whether, and, if so, how many of, the State and local environmental protection measures referenced in the draft economic analysis were adopted largely as a result of the listing of the Alameda whipsnake, and how many were either already in place or enacted for other reasons;

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

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

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

(8) Information on areas that could potentially be disproportionately impacted by an Alameda whipsnake critical habitat designation. The draft economic analysis indicates potentially disproportionate impacts to areas within Contra Costa, Alameda, San Joaquin, and Santa Clara counties. Based on this information, we are considering excluding portions of these areas from the final designation per our discretion under section 4(b)(2) of the Act;

(9) Any foreseeable economic or other impacts resulting from the proposed designation of critical habitat, and in particular, any impacts on small entities or families; the reasons why our conclusion that the proposed designation of critical habitat will not result in a disproportionate effect to small businesses should or should not warrant further consideration; and other information that would indicate that the designation of critical habitat would or would not have any impacts on small entities or families;

(10) Information on whether the draft economic analysis appropriately identifies all costs that could result from the designation; and

(11) Information on whether our approach to critical habitat designation could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concern and comments.

An area may be excluded from critical habitat if it is determined that the benefits of such exclusion outweigh the benefits of including a particular area as critical habitat, unless the failure to designate such area as critical habitat will result in the extinction of the species. We may exclude an area from designated critical habitat based on economic impacts, national security, or any other relevant impact.

All previous comments and information submitted during the initial comment period on the October 18, 2005, proposed rule (70 FR 60608) need

not be resubmitted. If you wish to comment, you may submit your comments and materials concerning the draft economic analysis and the proposed rule by any one of several methods (see **ADDRESSES** section). Our final designation of critical habitat will take into consideration all comments and any additional information we received during both comment periods. On the basis of public comment on this analysis, the critical habitat proposal, and the final economic analysis, we may during the development of our final determination find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or not appropriate for exclusion.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include "Attn: RIN 1018-AT93" and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

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, but you should be aware that the Service may be required to disclose your name and address pursuant to the Freedom of Information Act. 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, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours, at the Sacramento Fish and Wildlife Office at the address listed under **ADDRESSES**.

Copies of the proposed rule and draft economic analysis are available on the Internet at: <http://www.fws.gov/sacramento/>. You may also obtain

copies of the proposed rule and economic analysis from the Sacramento Fish and Wildlife Office (see **ADDRESSES**), or by calling 916/414-6600.

### Background

We published a proposed rule to designate critical habitat for the Alameda whipsnake on October 18, 2005 (70 FR 60608). The proposed critical habitat totaled approximately 203,342 acres (ac) (82,289 hectares (ha)) in Contra Costa, Alameda, San Joaquin, and Santa Clara counties, California. Per settlement agreement, we will submit for publication in the **Federal Register** a final critical habitat designation for the Alameda whipsnake on or before October 1, 2006.

Critical habitat is defined in section 3 of the Act as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. Based on the October 18, 2005, proposed rule to designate critical habitat for the Alameda whipsnake (70 FR 60608), we have prepared a draft economic analysis of the proposed critical habitat designation.

The current draft economic analysis estimates the foreseeable economic impacts of the proposed critical habitat designation on government agencies and private businesses and individuals. The economic analysis identifies potential costs of approximately \$532 million over a 20-year period, or approximately \$47 million per year, as a result of the proposed critical habitat designation, including those costs coextensive with

listing. If this cost is annualized (adjusted for inflation and value over the time period to equate to an annual cost) over the 20 year period, the potential costs are predicted to be approximately \$47 million per year. The analysis measures lost economic efficiency associated with residential and commercial development, and public projects and activities, such as economic impacts on transportation projects, the energy industry, and Federal lands.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of the Alameda whipsnake, including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. It further considers the economic effects of protective measures taken as a result of other Federal, State, and local laws that aid habitat conservation for the Alameda whipsnake in essential habitat areas. The draft analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the "opportunity costs" associated with the commitment of resources to comply with habitat protection measures (e.g., lost economic opportunities associated with restrictions on land use). This analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, this draft analysis looks retrospectively at costs that have been incurred since the date the species was listed as a threatened species (December 5, 1997; 62 FR 64306) and considers those costs that may occur in the 20 years following a designation of critical habitat.

As stated earlier, we solicit data and comments from the public on this draft economic analysis, as well as on all aspects of the proposal. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

Costs related to conservation activities for the proposed Alameda whipsnake

critical habitat pursuant to sections 4, 7, and 10 of the Act are estimated to be approximately \$532 million from 2006 to 2026. Overall, the residential and commercial industry is anticipated to experience the highest estimated costs. The draft analysis was conducted at the census tract level. Of the 49 census tracts that are part of this current proposal, 17 are identified as census tracts responsible for over 80 percent of the most economically impacted areas. Annualized impacts of costs attributable to the proposed critical habitat designation are projected to be approximately \$47 million.

#### Required Determinations—Amended

##### *Regulatory Planning and Review*

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. However, 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 timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) did not formally review the proposed rule.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A-4, September 17, 2003). Pursuant to Circular A-4, once it has been determined that the Federal regulatory action is appropriate, the agency will then need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

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

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

Under the Regulatory Flexibility Act (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 effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. In our proposed rule, we withheld our determination of whether this designation would result in a significant effect as defined under SBREFA until we completed our draft economic analysis of the proposed designation so that we would have the factual basis for our determination.

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

To determine if the proposed designation of critical habitat for the Alameda whipsnake would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (*e.g.*, residential and commercial development). We considered each industry or category individually to determine if certification

is appropriate. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement; some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; non-Federal activities are not affected by the designation.

If this proposed critical habitat designation is made final, Federal agencies must consult with us under section 7 of the Act if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process.

In our draft economic analysis of the proposed critical habitat designation, we evaluated the potential economic effects on small business entities resulting from conservation actions related to the listing of the Alameda whipsnake and proposed designation of its critical habitat. We determined from our analysis that the small business entities that may be affected are firms in the new home construction sector. We estimated the number of affected small businesses and calculated the number of houses built per small firm. It appears that the annual number of affected small firms would be fewer than four in the affected counties. Note that if one firm closed in the first year, then this same firm would be affected in subsequent years. The number of small firms will not decrease every year. These firms may be affected by activities associated with the conservation of the Alameda whipsnake, inclusive of activities associated with listing, recovery, and critical habitat. In the development of our final designation, we will explore potential alternatives to minimize impacts to any affected small business entities. These alternatives may include the exclusion of all or portions of critical habitat units in areas where the number of small businesses are disproportionately affected. However, we are seeking comment on potentially excluding areas from the final critical habitat designation if it is determined that there will be a substantial and significant impact to small real estate development businesses in the affected areas.

Critical habitat designation for the Alameda whipsnake is expected to have the largest impacts on the market for developable land. The proposed critical habitat designation for Alameda whipsnake occurs in a number of

rapidly growing areas. Regulatory requirements to avoid on-site impacts and mitigate off-site affect the welfare of both producers and consumers. In the scenario presented here, mitigation requirements increase the cost of development, and avoidance requirements are assumed to reduce the construction of new housing. In this scenario, the proposed critical habitat designation is expected to impose losses of over \$532 million over the 20-year study period.

The economic impacts of the proposed critical habitat designation vary widely even with the county. That is, the impacts of designation are frequently localized. This finding is sensible from an economic point of view and is consistent with the teachings of urban economics. Housing prices vary over urban areas, typically declining as the location of the house becomes more remote. Critical habitat is not evenly distributed across the landscape, and large impacts may result if a particular area has a large fraction of developable land in critical habitat. Some areas have few alternate sites for development, or have highly rationed housing resulting in high prices. Any of these factors may cause the cost of critical habitat designation to increase.

The precise spatial scale of the analysis permits identification of specific locations, or parts of individual critical habitat units, that result in the largest economic impacts. The maps contained at the end of the draft economic analysis are instructive in this regard. The maps identify the census tracts within the counties where the impacts are predicted to occur.

Please refer to our draft economic analysis of the proposed critical habitat designation for a more detailed discussion of potential economic impacts.

#### *Executive Order 13211*

On May 18, 2001, the President issued 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 is considered a significant regulatory action under E.O. 12866 because it raises novel legal and policy issues, but it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant 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, local, or tribal governments, or the private sector, and includes both "Federal intergovernmental mandates" and "Federal private sector mandates." These terms are defined in 2 U.S.C. 658(5)–(7). "Federal intergovernmental mandate" includes a regulation that "would impose an enforceable duty upon State, local, or tribal governments," with two exceptions. It excludes "a condition of federal assistance." It also excludes "a duty arising from participation in a voluntary Federal program," unless the regulation "relates to a then-existing Federal program under which \$500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority," if the provision would "increase the stringency of conditions of assistance" or "place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding" and the State, local, or tribal governments "lack authority" to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; Aid to Families with Dependent Children work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) "Federal private sector mandate" includes a regulation that "would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program."

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

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

(b) As discussed in the draft economic analysis of the proposed designation of critical habitat for the Alameda whipsnake, the impacts on nonprofits and small governments are expected to be small. There is no record of consultations between the Service and any of these governments since the Alameda whipsnake was listed as threatened on December 5, 1997 (62 FR 64306). It is likely that small governments involved with developments and infrastructure projects will be interested parties or involved with projects involving section 7 consultations for the Alameda whipsnake within their jurisdictional areas. Any costs associated with this activity are likely to represent a small portion of a local government's budget. Consequently, we do not believe that the designation of critical habitat for the Alameda whipsnake will significantly or uniquely affect these small governmental entities. As such, a Small Government Agency Plan is not required.

#### *Takings*

In accordance with Executive Order 12630 ("Government Actions and Interference with Constitutionally Protected Private Property Rights"), we have analyzed the potential takings implications of proposing critical habitat for the Alameda whipsnake. Critical habitat designation does not affect landowner actions that do not require Federal funding or permits, nor does it preclude development of habitat conservation programs or issuance of incidental take permits to permit actions that do require Federal funding or permits to go forward. In conclusion, the designation of critical habitat for the Alameda whipsnake does not pose significant takings implications.

#### **Author**

The primary author of this notice is the staff of the Sacramento Fish and Wildlife Office.

#### **Authority**

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: April 26, 2006.

**Matt Hogan,**

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

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AU32

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

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

**ACTION:** Proposed rule; reopening of comment period and notice of availability of draft economic analysis.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the proposed designation of critical habitat for the Rota bridled white-eye (*Zosterops rotensis*) and the availability of the draft economic analysis. The draft economic analysis estimates the potential total costs for this critical habitat designation to range from \$806,000 to \$4,465,000, at present value over a 20-year period, or \$76,000 to \$421,000 per year, assuming a 7 percent discount rate. We are reopening the comment period to allow peer reviewers and all interested parties the opportunity to comment simultaneously on the proposed rule and the associated draft economic analysis. Comments previously submitted need not be resubmitted as they will be incorporated into the public record as part of this comment period and will be fully considered in preparation of the final rule.

**DATES:** We will accept public comments until June 5, 2006.

**ADDRESSES:** You may submit your comments and information by any one of several methods:

(1) You may submit written comments and information by mail to the Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Blvd., P.O. Box 50088, Honolulu, HI 96850-0001.

(2) You may hand-deliver written comments to our Pacific Islands Fish and Wildlife Office at the address given above.

(3) You may fax your comments to 808-792-9581.

(4) 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 e-mail comments, see the Public Comments Solicited section.

(5) You may submit comments via the Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

#### FOR FURTHER INFORMATION CONTACT:

Patrick Leonard, Field Supervisor, Pacific Islands Fish and Wildlife Office, at the above address (telephone: 808-792-9400; facsimile: 808-792-9581).

#### SUPPLEMENTARY INFORMATION:

##### Public Comments Solicited

We will accept written comments and information during this reopened comment period. We solicit comments on the original proposed critical habitat designation, published in the **Federal Register** on September 14, 2005 (70 FR 54335), and on our draft economic analysis of the proposed designation. We will consider information and recommendations from all interested parties. We are particularly interested in comments concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), 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;

(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;

(6) The extent to which the description in the draft economic analysis of economic impacts to public land management, agricultural homestead development, and private development and tourism activities is complete and accurate; and

(7) The likelihood of adverse social reactions to the designation of critical habitat, as discussed in section 1.2.3.3

of the draft economic analysis, and how the consequences of such reactions, if likely to occur, would relate to the conservation and regulatory benefits of the proposed critical habitat designation.

(8) Whether the Island-wide Habitat Conservation Plan (HCP) or the Rota Bridled White-eye HCP should be considered for inclusion or exclusion from the final critical habitat designation.

If you wish to submit comments electronically, please submit them in an ASCII format and avoid the use of special characters and any form of encryption. Please include "Attn: RIN 1018-AU32" in the 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 message, contact us directly by calling our Pacific Islands Fish and Wildlife Office at 808-792-9400. Please note that the e-mail address [RBWE\\_CritHab@fws.gov](mailto:RBWE_CritHab@fws.gov) will be closed at the termination of the public comment period. If our e-mail connection is not functioning, please submit comments by one of the alternate methods listed in the **ADDRESSES** section.

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, 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 or address or both, you must state this prominently at the beginning of your comment, but you should be aware that the Service may be required to disclose your name and address pursuant to the Freedom of Information Act. 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, as well as supporting documentation used in preparation of the proposal to designate critical habitat, will be available for inspection, by appointment, during normal business hours at the Pacific Islands Fish and Wildlife Office (see **ADDRESSES** section). Copies of the proposed critical habitat rule for the Rota bridled white-eye and the draft economic analysis are available