SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation on worker protection standards for agricultural pesticides (40 CFR parts 156 and 170). This action is required by section 25(a)(2)(A) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Patricia Breslin, Chief, Occupational Safety Branch, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1009, CM #2, 1212 Jefferson Davis Hwy., Arlington, VA, (703)-557-7666.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA provides that the Administrator of EPA shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 30 days prior to signing it for publication in the Federal Register. The Administrator and the Secretary may, by agreement, modify or waive this time requirement, and they have done so with respect to the worker protection final rule. Accordingly, if the Secretary comments in writing regarding the regulation within 45 days after receiving it, the Administrator shall issue for publication in the Federal Register the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 45 days after receiving the regulation, the Administrator may sign the regulation for publication in the Federal Register any time thereafter. (Sec. 25., Pub. L. 92-518, 86 Stat. 973, as amended (7 U.S.C. 130 et seq.))


Douglas D. Camp,
Director, Office of Pesticide Programs.

[FR Doc. 91-14345 Filed 6-13-91; 8:45 am]
BILLING CODE 6560-50-F

40 CFR Part 170
[OPP-300164E; FRL-3793-3]
Worker Protection Standards for Agricultural Pesticides; Notification of the Secretary of Agriculture

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice of transmittal of proposed rule to the Secretary of Agriculture.

SUMMARY: Notice is given that the Administrator of EPA has forwarded to the Secretary of the U.S. Department of Agriculture a proposed regulation on worker protection standards for agricultural pesticides (40 CFR part 170). This action is required by section 25(a)(2)(B) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT: By mail: Patricia Breslin, Chief, Occupational Safety Branch, Field Operations Division (H-7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1009, CM #2, 1212 Jefferson Davis Hwy., Arlington, VA, (703)-557-7666.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(A) of FIFRA provides that the Administrator of EPA shall provide the Secretary of Agriculture with a copy of any proposed regulation at least 60 days prior to signing it for publication in the Federal Register. The Administrator and the Secretary may, by agreement, modify or waive this time requirement, and they have done so with respect to this proposed rule. Accordingly, if the Secretary comments in writing regarding the proposed regulation within 45 days after receiving it, the Administrator shall issue for publication in the Federal Register, with the proposed regulation, the comments of the Secretary, if requested by the Secretary, and the response of the Administrator concerning the Secretary's comments. If the Secretary does not comment in writing within 45 days after receiving the proposed regulation, the Administrator may sign the regulation for publication in the Federal Register any time thereafter. (Sec. 25., Pub. L. 92-518, 86 Stat. 973, as amended (7 U.S.C. 130 et seq.))


Douglas D. Camp,
Director, Office of Pesticide Programs.

[FR Doc. 91-14344 Filed 6-13-91; 8:45 am]
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FEDERAL MARITIME COMMISSION

EXEMPTION OF CERTAIN MARINE TERMINAL SERVICES ARRANGEMENTS

AGENCY: Federal Maritime Commission.
ACTION: Notice of proposed rulemaking: correction.
SUMMARY: On May 15, 1991, the Federal Maritime Commission published a notice of proposed rulemaking (56 FR 22384) which proposes to amend 46 CFR parts 515, 560 and 572 to conditionally exempt, pursuant to section 35 of the Shipping Act, 1916, and section 18 of the Shipping Act of 1984, certain marine terminal services arrangements from certain agreement filing requirements of the Shipping Act, 1916, the Shipping Act of 1984 and the Commission's implementing regulations thereunder, and to conditionally discontinue the Commission's tariff filing requirements for such matters. The notice of proposed rulemaking directed that parties filing reply comments serve a copy of those replies on all other commenters. The Commission omitted the requirement that initial comments be served on all other commenters, in order to facilitate the filing of reply comments. This correction adds the requirement that all parties filing initial comments serve a copy of their comments on all other commenters, so that replies may be made. The Secretary of the Commission will provide a service list for this purpose shortly after completion of the initial round of comments.


ADDRESSES: Send an original and fifteen copies of comments and replies to: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Bryant L. VanBrakle, Deputy Director, Bureau of Domestic Regulation, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573-0001, (202) 523-5796.

By the Commission.

Joseph C. Polking,
Secretary.

[FR Doc. 91-14124 Filed 6-13-91; 8:45 am]
BILLING CODE 0730-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Little Mariana Fruit Bat, Mariana Fruit Bat, Guam Broadbill, Mariana Crow, Guam Micronesian Kingfisher, and Guam Bridled White-Eye

AGENCY: Fish and Wildlife Service, Interior.
ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) proposes to designate critical habitat for six endangered forest species on Guam, the little Mariana fruit bat (*Pteropus tokodea*), Mariana fruit bat (*Pteropus mariannus mariannus*), Guam broadbill (*Myiagro freycineti*), Mariana crow (*Corvus kubaryi*), Guam Micronesian kingfisher (*Halcyon cinnamomina cinnamomina*), and Guam bridled white-eye (*Zosterops conspicillus conspicillus*). These species were listed as endangered on August 27, 1984. Critical habitat was not designated at the time of the listing because it was not deemed prudent. Federal actions that may affect the areas designated as critical habitat would be subject to consultation with the Service, pursuant to section 7(a)(2) of the Act. Comments and materials related to this proposal are solicited.

DATES: Comments from all interested parties must be received by August 13, 1991. Public hearing requests must be received by July 29, 1991.

ADDRESSES: Comments and materials concerning this proposal should be sent to Robert P. Smith, Field Supervisor, Pacific Islands Office U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, PO Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John Engbring, at the above address (808/541-2749 or FTS 551-2749).

SUPPLEMENTARY INFORMATION:

Background

In the final rule published August 27, 1984, in the Federal Register (49 FR 33881), the Service determined endangered status for seven birds—Guam broadbill, Mariana crow, Mariana gallinule (moorhen), Micronesian kingfisher, Guam rail, Vanikoro swiftlet, and bridled white-eye—and two mammals—the little Mariana fruit bat and Guam population of Mariana fruit bat. These species are found in the Mariana Islands in the western Pacific in the Territory of Guam and the Commonwealth of the Northern Mariana Islands, both under the jurisdiction of the United States. For further information on the listing of these species, see the 1984 Federal Register.

Six of these seven endangered species (all but the rail) are forest species, and their primary habitat is native forest. These six species were at one time distributed in forest throughout Guam. By the time they were listed in 1984, their ranges had been severely reduced. Since then they have continued to decline in the wild. Their primary habitat is undisturbed native forest, but they are relatively adaptable and are able to reside in a variety of forest types, including forests with mixed native and introduced vegetation, mature forests, coconut forests, strand forests, and second growth forests.

The Mariana crow is endemic to Guam and Rota. The population on Rota has been relatively stable and, based on a 1982 survey, was believed to number about 1,300 individuals (Engbring et al. 1988). On Guam, the population has declined and is now believed to number fewer than 100 individuals (USFWS 1987b). Moreover, there has been little or no successful reproduction. Compared to other forest birds of Guam and Rota, the crow requires relatively large tracts of forest that do not have high levels of human activity. More forest is necessary to maintain a genetically viable population of this species than for other forest birds on Guam.

The Marina fruit bat is found on all the major islands in the Marianas. Only the Guam population is listed as endangered, although population on Saipan, Tinian, and Aguijan are listed as category 1 candidate species, and the populations on Rota and the islands north of Saipan are listed as category 2 candidate species (54 FR 554). On Guam the bat was historically found throughout native forests. By the 1980's it had been reduced to about 500 and was restricted to forest on the northern tip of the island (USFWS 1987a), although there are occasional reports of bats from southern Guam around Pena Reservoir. Illegal hunting is believed to be one of the major causes for the decline, but predation by the brown tree snake may also be an important limiting factor (Wiles 1987). Various species of Pacific fruit bats generally use a variety of forest types including agricultural forest in close proximity to residential areas. On Guam, however, it has not been possible to provide adequate protection from poaching, and residential areas have been excluded from use by the bat probably because of this illegal hunting. Forested areas protected from human intrusion are necessary for recovery of the bat on Guam, and designation of critical habitat would help to protect these areas.

The Micronesian kingfisher, a subspecies endemic to Guam, was at one time found throughout most forests (Jenkins 1983). Up to 3,000 might have survived when the species was listed in 1984, but the kingfisher declined rapidly and it may be extinct in the wild today. However, a captive population has been established and is maintained at several mainland zoos including the Bronx, Philadelphia, and National Zoos. Once the brown tree snake is controlled or eradicated, progeny produced by this captive flock will be reintroduced to Guam. Adequate forest is essential for reintroducing the kingfisher. Designation of critical habitat would assure that suitable forest habitat remains for recovery of the kingfisher.

Three of the six forest species, all endemic to Guam, have not been observed in the wild for several years and may be extinct: The little Mariana fruit bat, Guam broadbill, and bridled white-eye. There have been no records of the little Mariana fruit bat since 1988. In 1983 the Guam broadbill was restricted to a small area at the north end of the island and the population was estimated at under 100 individuals. Since then, the broadbill has virtually disappeared from the island. Two sightings of individuals were made in 1984, one in March in Northwest Field and one in August adjacent to the Navy golf course in Barrigada (USFWS 1987b). A single broadbill was possibly heard in the Naval Communications area in 1988 (U.S. Navy 1989). Fewer than 50 bridled white-eyes were thought to survive in 1983. The last individual was observed in June 1983 (Beck 1984). If any of these three species still survive, they would require native forest that is needed by other forest species on Guam.

This proposed rule focuses on Guam populations of the six forest species that were listed in 1984 (all except the Mariana gallinule, Vanikoro swiftlet, and Guam rail). All six of the forest species have declined in numbers and distribution, and some may be extinct. The main cause of the decline at the time of listing was not certainly known, but probable causes included avian disease, predation by introduced animals, habitat loss, and, for two species of fruit bats, hunting. It has become increasingly clear that for the endangered birds, predation by the introduced brown tree snake (*Boiga irregularis*) is the primary cause of the
decline (Savidge 1987). For fruit bats, hunting is still considered to be a serious threat, although the snake may be preying upon bats as well (Wiles 1987). Two recovery plans have been prepared for the six species, a Guam and Rota forest bird recovery plan (USFWS 1987a) and a fruit bat recovery plan (USFWS 1987b).

Description of Petitions

Two similar petitions requesting that critical habitat be designated for seven endangered species on Guam have been received by the Service. The seven species are the Mariana fruit bat, little Mariana fruit bat, Mariana crow, Guam Micronesian kingfisher, Guam broadbill, Guam bridled white-eye, and Guam rain. The first petition, dated August 17, 1987, was from the Governor of Guam. Subsequently, on March 16, 1988, the Governor of Guam requested that his petition be considered under the emergency rule process. The Governor's request for designation of critical habitat was further supported by Resolution 399 of the Guam legislature dated May 19, 1988.

The second petition, dated December 31, 1987, was submitted jointly by the National Audubon Society and the Marianas Audubon Society and was forwarded to the Service under Sierra Club Legal Defense Fund letterhead. The petition requested designation of critical habitat on an emergency and permanent basis for the seven species. Both petitions requested that those areas delineated as essential habitat in the two recovery plans be designated as critical habitat for these species.

This proposed rule constitutes the finding for these two petitions. The Service has determined that the designation of critical habitat for the Mariana fruit bat, little Mariana fruit bat, Mariana crow, Guam Micronesian kingfisher, Guam broadbill, and Guam bridled white-eye, is warranted. However, the Service has determined that the designation of critical habitat for the Guam rain is not prudent and therefore not warranted. The Guam rain is now believed to be extinct in the wild, but a captive flock has been established for eventual reintroduction to the wild. The rail has different habitat requirements than the other six species, and although it uses various types of forest habitat, it is more accurately described as an "edge" species (Jenkins 1979). Such areas are relatively common on Guam and under no threat. The occurrence of prime rail habitat is often dependent on the disturbance or clearing of forests by humans, and the location of such habitat commonly changes over time. These areas generally do not require special protection or management. There would be little or no benefit to the rail in designating critical habitat in these areas, and such action is not deemed prudent at this time.

Essential habitat described in the forest bird recovery plan is a strip of land on northern Guam extending north from Punta De Amanecer Park on the west coast, continuing around Ritidian Point, east to Piti Point, and finally extending south to Campanay Point. Habitat in central and southern Guam is not specifically described in the forest recovery plan. Rather, the recovery plan states that essential habitat consisting of former historical range in central and southern Guam needs to be delineated, protected, and managed. No essential habitat is described for the Mariana crow on Rota. The recovery plan for the Guam fruit bats delineates essential habitat in both central and southern Guam. In northern Guam, the essential habitat is the same as that described for forest birds. In southern Guam critical habitat includes the Naval Magazine, the Naval Reservation, the Bolanos Conservation Reserve, and a small strip of land above the 800-foot contour on the west side of the Naval Magazine and Reservation.

Emergency Rulemaking

The Service has determined that designation of critical habitat via the emergency rule process is not necessary. The requests for designation of critical habitat via the emergency rule process were triggered by the Navy's proposal to clear up to 1,800 acres (7.28 square km) of forest and construct a radar project in Northwest Field on Andersen Air Force Base. The proposed construction site for the project is within the areas identified as essential habitat for the recovery of the six endangered species. According to the petitioners, the Navy project could destroy and/or adversely modify up to 1,800 acres. This work was originally to have been done without the completion of an environmental impact statement. The Navy has now indicated that the project will remove considerably less than 1,800 acres, has decided to prepare a full environmental impact statement, and has entered into consultation with the Service pursuant to section 7(a)(2) of the Act.

Critical Habitat

The Service has evaluated the petitions and other information relative to this issue and concurs that designation of critical habitat for the forest species is warranted. The populations and ranges of these endangered species have decreased rapidly within the past 25 years and parts of former historical range are no longer occupied by them. Parts of these historical ranges are considered to be essential for recovery. A question has been raised as to the scope of Federal agency obligations under section 7(a)(2) of the Act if no listed species occurs on a proposed project site. Designation of these areas as critical habitat would ensure that Federal agency actions would not destroy or adversely modify this critical habitat intended for use in future reintroduction programs.

Urbanization and development of private property on Guam continues rapidly. Land prices increased dramatically in the 1980s, due largely to Japanese investment. Tourism and human population continue to increase rapidly. Along with this are associated human-caused disturbances to the forest environment. Forest habitat is being directly destroyed for roads, houses, buildings, and other structures. Also, the increased traffic and human activity adversely modify forest habitat by causing increased disturbance to forest species.

Recovery plans for the endangered forest birds incorporate captive propagation programs for species such as the kingfisher. Captive propagation programs would produce progeny for eventual reintroduction into the wild when the brown tree snake has been controlled or eliminated. Essential forested areas must be protected and managed if they are to retain their value as future reintroduction sites.

There has been speculation over the possible relocation of Navy and Air Force facilities now in the Philippines to the Mariana Islands. Should it be necessary to move the bases to Guam, it would be of benefit to be aware of Federal lands that have been designated as critical habitat to promote recovery of Guam's endangered species. It should result in early consultation and enhance resolution of conflicting use issues.

Critical habitat, as defined by section 3(5) of the Act, means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found the physical and biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the
maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. In the case of the six species addressed in this proposed rule, critical habitat was not designated when the species were listed in 1984 because it was not deemed prudent and there would have been no net benefit to the species. The only Federal activity known to have a potential adverse effect on any of the species was the clearing of land for the U.S. Air Force in a portion of the Guam rail's habitat on Andersen Air Force Base. Other Federal agencies contemplating actions with potential adverse effects to endangered species could be informed by means other than a critical habitat determination. Such potential adverse effects could be resolved through the consultation process as required by section 7(a)(2) of the Act. For these reasons discussed above, the Service now considers the designation of critical habitat on Guam to be prudent.

Section 4(a)(3)(B) of the Act allows for revision of critical habitat designation as appropriate. With the accelerated loss of forest habitat on Guam, the Service concurs that a proposed designation of critical habitat is appropriate for six of the seven endangered species covered by the petitions: The Mariana crow, Micronesian kingfisher, Mariana fruit bat, little Mariana fruit bat, Guam broadbill, and Guam bridled white-eye. The areas for which the Service proposes critical habitat designation are those identified as "high priority essential habitat" and "essential habitat" in the two recovery plans for these species. The total acreage of the proposed areas is approximately 16,893 acres (6,837 ha) in northern Guam and 7,669 acres (3,104 ha) in southern Guam. About 83% of the land within the proposed critical habitat of the six forest species on Guam is in Federal ownership and is under the jurisdiction of either the U.S. Navy or the U.S. Air Force. Approximately 14.5% is owned by the Government of Guam, while the remaining 5% is private ownership.

Through the 1970's and early 1980's about 50,000 acres (20,235 ha) of suitable forest habitat was estimated to remain on Guam (Guam Division of Forestry and Soil Resources 1983). This is considered to be enough habitat to support recovered populations of the endangered forest species. This habitat was about equally divided between northern and southern Guam; based on 1973 aerial photography, about 25,000 acres remained on northern Guam (Engbring and Ramsey 1984). Much of the habitat was occupied by one or more of these species during the 1970's (Jenkins 1983), but population size and distribution were diminishing rapidly as a result of predation by the brown tree snake.

Extensive tracts of forest (more than a thousand acres) that are removed from intensive human disturbances are now becoming increasingly rare on Guam due to the cumulative effects of development. Furthermore, the pace of development has recently accelerated. Two large forested parcels remain, the forest at the northern end of the island (described as "essential habitat" and "high priority essential habitat" by the petitioners) and the forest in south-central Guam in and adjacent to the Naval Magazine. These two areas are essential to the conservation and recovery of endangered forest species on Guam. The Mariana crow, in particular, requires large, relatively isolated tracts of forest. The Service's Recovery Plan for the Native Forest Birds of Guam specifies essential habitat for the broadbill, white-eye, kingfisher, and crow. The Recovery Plan for the Marianas Fruit Bat and Little Marianas Fruit Bat specifies essential habitat for both bat species. The tropical forest critical habitat includes forest and associated land and airspace in Guam and is precisely delineated as follows:

1. Northern Guam. (1) Those portions north and seaward of (a) a line from the westernmost tip of Amantes Point east to Wettengel Junction on Marine Drive; (b) Highway 3 from Wettengel Junction north to Potts Junctions; (c) Highway 9 from Potts Junction east to Salisbury Junction; and (d) the Andersen Air Force Base boundary from Salisbury Junction east to the contiguous coastal Government of Guam property from Anao Point to Campanay Point including the Anao Conservation Reserve, lot numbers 7102, 7103, 7147, and the Lujana portion of Lot Number A (the Asdolucas portion of Lot Number A is excluded) [lot numbers from Government of Guam Land Registration Survey Plate]. (2) The single private property inholding at Janum Point.

2. Southern Guam. Those portions including: (a) Naval Magazine; (b) Naval Reservation (Fena Valley Watershed); (c) the area above the 800-foot contour west of and abutting the Naval Magazine and the Naval Reservation; (d) the area abutting and between the Naval Magazine and Naval Reservation along the Maagas River, bounded on the east by a line beginning at the easternmost point of the Naval Magazine along the Maagas River and running southwest to the easternmost tip of the Naval Reservation south of the Tinechong River; and (e) the entire Bolanos Conservation Reserve, which is comprised of lot numbers 507, 508, and 509 (lot numbers from Government of Guam Land Registration Survey Plates). The major constituent element is native and non-native forest, which is defined herein as those vegetation types in which the upper canopy is equal to or greater than 6 foot (2 m) high and is dominated by woody plant species. A number of roads, open fields, houses, runways, buildings, and other man-made structures are found within the boundaries outlined; however, only forested portions are being considered for proposed critical habitat designation.

The proposed areas referred to above include areas within the geographical area occupied by the species at the time they were listed as well as specific areas outside the geographical area occupied by the species at the time they were listed which are essential to the conservation of the species. In considering a designation of critical habitat, the Service focuses on the primary constituent elements (i.e., the physical and biological features of the area that are essential to the conservation of the species) in defining critical habitat. In addition, the Service is required to list the known primary constituent elements together with the description of any critical habitat that is designated (50 CFR 424.12(b)). In the case of the six Guam forest species, the proposed areas include the physical and biological features essential to the conservation of the species and require special management and protection. Physically, they consist of relatively contiguous tracts of a variety of forest types, including mature limestone forest, mixed woodlands, second growth strands, coastal stand forests, coconut forest, and ravine forests; these are all habitat types which are favored by the six endangered forest species. When isolated from excessive human disturbance, such forests biologically fulfill the stringent requirement of the Mariana crow and Mariana fruit bat in providing relatively large, contiguous tracts of forest with a minimum of human disturbance.

The area in southern Guam proposed for critical habitat has not recently supported forest birds, although a few Mariana fruit bats may still survive there. The ravine forests of this area were formerly used by all six species. They contain the physical and biological features essential for the recovery and conservation of these species. Because
the Guam broadbill, bridled white-eye, and probably the little Mariana fruit bat historically occupied this habitat, any animals still extant would be expected to thrive in this area once the effects of the brown tree snake are eliminated.

Designation of these areas as critical habitat would not only prevent jeopardy to the continued survival of those species which are currently restricted to a small fraction of their former historical range, but would provide habitat for reintroduction programs once the brown tree snake is controlled or eliminated. Species that may be reintroduced at some point in the future include the Micronesian kingfisher and possibly the Mariana crow and Mariana fruit bat. The key management consideration common to all of the the species is the elimination of the exotic brown tree snake, which was a major factor in the population declines of these species. Conservation and recovery of the Mariana fruit bat and the Mariana crow, which are still known to be present in the wild, would be substantially enhanced through protection and management of portions of their former historical range in southern Guam.

Section 4(b)(8) of the act requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may be affected by such a designation. Actions that could adversely affect critical habitat for these species include the removal, destruction, or fragmentation of forest habitat and an increase in human-associated or human-induced disturbances. Specific actions that could adversely affect critical habitat include the clearing of forest for military construction project; the clearing of forest for private resorts, houses, or golf courses; military training exercises; and increased recreational activities within or adjacent to critical habitat. Destruction or alteration of forest on Guam could result in the extirpation of endangered forest species and/or preclude opportunities for recovery. Fragmentation of forest habitat with roads, buildings, or clearings could result in habitat patches too small to provide suitable nesting and foraging sites for such species as the Mariana crow. Increases in recreational activities, military training exercises, or other types of human activity could cause nest abandonment (for birds) or roost abandonment (for fruit bats), ultimately leading to decreased rates of reproduction and the loss of suitable habitat.

A variety of Federal agencies have jurisdiction and responsibilities within the areas proposed for designation as critical habitat for the six endangered forest species. In accordance with the provisions of the Act, section 7 consultations are required in cases where a Federal action may affect any of the six endangered Guam species, or section 7 conferences are required in cases where a Federal action is likely to destroy or adversely modify their proposed critical habitat. Known project proposals within proposed critical habitat that could require (or have required) consultations or conferences for any of the reasons mentioned above include: Installation of "relocatable over-the-horizon-radars" (Navy); military training exercises (DOD); construction of resorts, golf courses, and other recreational facilities where Federal permits are required (Navy, Air Force, and Corps of Engineers); clearing of forest vegetation for roads, warehouses, and other military construction projects (DOD); increase or changes in recreational use of Federal properties (Navy, Air Force); the release or exchange of excess Federal property (Navy, Air Force). Although these projects have the potential for adverse effects on forest habitat, section 7 consultations almost invariably result in modification rather than curtailment of such projects, pursuant to the development of reasonable and prudent alternatives.

Section 4(b)(2) of the Act requires the Service to consider economic and other relevant impacts of designating a particular area as critical habitat. The Service is making this proposal to designated critical habitat on the basis of the best scientific information available and with additional relevant information that has been submitted from various sources. The Service solicited comments on the economic impacts of critical habitat designation from the Guam Bureau of Planning, the U.S. Navy, the U.S. Air Force, and Guam Urunao Resort Corporation. Telephone conversations and individual contacts have been made with local government officials, Federal and Guam agency personnel, and private business officials. The Service held a formal information meeting on Guam in June 1989. Information gathered has been incorporated into an economic analysis of the impacts of designating critical habitat.

Activities in the proposed critical habitat areas include military training exercises; hunting, hiking, camping, and related outdoor recreational activities; the collection of fruits, medicinal plants, and other traditional forest products; security checks by the military; and minor agricultural endeavors. Much of the forest is valuable as watershed that recharges reservoirs and the freshwater lens. There is no mining, ranching, timber harvest, or farming on Federal properties being considered for critical habitat designation on Guam. Several military construction projects, one major private resort, and the exchange or release of certain excess Federal properties have been proposed at various sites within the proposed critical habitat boundaries.

Several Federal and Government of Guam (GovGuam) agencies have jurisdiction over the activities within or near the proposed critical habitat areas. The Navy and the Air Force have expressed concern that the designation of critical habitat would affect currently proposed or future projects and asked to have various project areas removed from the critical habitat boundaries. GovGuam has expressed concern over the potential release of excess Federal property. Economic impacts attributable to critical habitat considerations for these projects are expected to be minimal. The Service has prepared an economic analysis of the areas being proposed for critical habitat in this rule. Details pertaining to specific proposals and activities are summarized below.

Private lands within proposed critical habitat are mostly forested and used for recreation, traditional collection of forest products, and the limited cultivation of crops. Most activities occurring on private lands do not require Federal approval and would not be affected by the designation of critical habitat. One major resort has been proposed by the Guam Urunao Resort Corporation, which has leased the right to develop private (Artero) property. Both the Mariana Crow and the Mariana fruit bat occur in this area and may be affected by the project. This project would require several Federal and GovGuam permits, including section 7 consultation under the Endangered Species Act, regardless of whether or not critical habitat is designated. The designation of critical habitat in and of itself is not expected to have any significant impact on the project. One other parcel or private property, the Castro property, is “landlocked” by military lands. This area harbors the Mariana Crow and the Mariana fruit bat, and projects in the area may affect these species. Landowners have requested an improved access easement, but no major projects have been proposed for this area. Federal permits are currently required to access this area.
property; the designation of critical habitat is not expected to have any significant impact above and beyond current permit requirements.

Actions for which foreseeable economic effects are likely to occur as a result of critical habitat designation are those of the U.S. Navy. The Navy proposes to build three "relocatable over-the-horizon" radar installations within the proposed critical habitat on Guam. If it becomes necessary to construct these facilities at an alternative site outside of critical habitat as a result of critical habitat designation, the cost could total approximately $100 million per site. One of the three projects does not now appear to be viable and is no longer being pursued by the military. If the other two facilities are built, it appears that various types of mitigation would be possible that would not force relocation to an alternate site. Total economic impact would be significantly lessened if this were the case.

A Federal action which might be affected by a critical habitat designation is the potential release of excess Federal property to GovGuam. Property identified as releasable in the past includes several areas that are partly or entirely within the proposed critical habitat boundaries. Whether any or all of the land is eventually released to GovGuam is speculative. The DOD may no longer consider certain Federal properties previously identified as excess to be releasable for a number of reasons, including: The possibility of relocating military facilities from the Philippines to Guam; the possible need for certain parcels on which to build radar sites; the potential relocation of the Naval Air Station to Andersen AFB; the tremendous increase in cost and general unavailability of land on Guam as a result of Japanese investment; and, the fact that various restrictions have been placed on Federal lands as a result of the listing of endangered forest species in 1984. The designation of critical habitat on Guam could "tie up" areas that the military had formerly considered suitable for development. The DOD might thus be less inclined to designate property as excess, under the expectation that the land will eventually be needed for military purposes.

If critical habitat is designated, there could be, via the section 7 process, conditions or restrictions placed on any land transfer. However, the release of most military lands on Guam would even now require consultation with the Service under section 7 or the Endangered Species Act, regardless of whether or not critical habitat is designated. Even the transfer of properties such as the Harmon Annex or South Finnegayan, now at the extreme southern portion of the range of the Mariana Crow and Mariana fruit bat, may affect these listed species. Mechanisms to preserve and protect forested areas on these tracts would probably be a condition of any such consultation. There would be no economic impact on the identification of and/or transfer of excess Federal land to GovGuam per se.

A still hypothetical project that could be affected by the designation of critical habitat is relocation of the Naval Air Station to Andersen AFB. The Naval Air Station currently shares runways with the Guam International Airport. Naval maintenance hangars, administrative buildings, and housing are all located on site. As the tourist industry has built up and the need for private airport facilities has increased, GovGuam has been seeking ways to expand the International Airport. A recent proposal has been to relocate the Naval Air Station to Andersen AFB, thus freeing Naval property at the airport for commercial development. The feasibility of such a move is being studied by the U.S. General Accounting Office. At least four potential sites have been identified on Andersen AFB for such a move. Three of these sites are entirely or largely within developed boundaries at Andersen, and critical habitat would have little or no economic effect on them.

The relocation of U.S. Navy and Air Force bases from the Philippines to Guam is a possibility that has been discussed in recent years, but the reality of any such move is conjectural. If either of the two large military facilities in the Philippines, Subic Bay or Clark AFB, are closed or moved, Guam would be a logical relocation site. Critical habitat could have an impact on such a move, but any attempt to place economic values on this scenario is premature.

The Navy is currently developing Natural Resource Management Plans for all of its installations on Guam. These plans will focus on the conservation of natural resources, including endangered species. Expanded hunting and fishing programs may be authorized in the future. A number of activities occur on Air Force land within the proposed critical habitat boundaries, including hunting, fishing, military training exercises, camping, picnicking, explosive ordnance disposal, and others. Most of these activities have been conducted for many years, and the designation of critical habitat would not be expected to significantly alter ongoing activities.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, state, and private agencies and by various groups and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the states and requires that recovery actions be carried out for all listed species. Such actions have been initiated by the Service following the listing of the six Guam species in 1984. The protection measures provided to listed species by Federal agencies are summarized below.

Section 7(a)(1) of the Act, as amended, requires Federal agencies 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 being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. 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 a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Several Federal agencies have jurisdiction and responsibilities within endangered forest species habitat, and section 7 consultations have been and will be required in a number of cases. Project proposals that could require or have undergone consultation are summarized under the Critical Habitat section above.

Public Comments Solicited

The Service intends that any final action resulting from this proposal will 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 particularly are sought concerning:

(1) The reasons why any habitat should or should not be determined to
be critical habitat as provided by section 4 of the Act;

(2) Current or planned activities in the subject area and their possible impacts on this species;

(3) Current or planned activities in the subject area and the projected economic costs associated with these activities.

The final decision on this proposed regulation on designating critical habitat for the six endangered forest species on Guam will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

Requests for a public hearing on this proposal must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Pacific Islands Administrator (see ADDRESSES section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

A complete list of all references sited herein is available upon request from the Service's Honolulu Field Office (see ADDRESSES above).

Author

The primary author of this proposed rule is John Engbring, Fish and Wildlife Enhancement, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749 or FTS 551-2749).

List of Subjects in 50 CFR Part 17

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

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter 1, title 50 of the Code of Federal Regulations, as set forth below:

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


§ 17.11 [Amended]

2. It is proposed to amend § 17.11(h) by revising the “Critical habitat” entry for six different species, including “Bat, little Mariana fruit,” and “Bat, Mariana fruit,” under MAMMALS, to read “17.95(a);” and “Broadbill, Guam,” “Crow, Mariana,” “Kingfisher, Guam Micronesian,” and “White-eye, bridled,” under BIRDS, to read “17.95(b).”

3. It is proposed to amend § 17.95(a) by adding critical habitat of the little Mariana fruit bat and Mariana fruit bat, in the same alphabetical order as the species occur in § 17.95(h); and it is proposed to amend § 17.95(b) by adding critical habitat of the Guam broadbill, Mariana crow, Guam Micronesian kingfisher, and bridled white-eye, in the same alphabetical order as the species occur in § 17.11(h).

§ 17.95 Critical habitat—fish and wildlife.

(b) * * *

Little Mariana Fruit Bat (Pteropus tokudae), Mariana Fruit Bat (Pteropus mariannus marianus), Guam Broadbill (Myiagra freycinetii), Mariana Crow (Corvus kubaryi), Guam Micronesian Kingfisher (Halcyon cinnamomina cinnamomina), and Bridled White-Eye (Zosterops conspicillatus conspicillatus).

Guam: associated land and airspace of vegetation types with an upper canopy equal to or greater than 6 feet (2 m) high, dominated by woody plant species, and within the following boundaries:

1. Northern Guam.

(a) Those portions north and seaward of (a) a line from the westernmost tip of Amantes Point east to Wettenel Junction on Marine Drive; (b) Highway 3 from Wettenel Junction north to Potts Junction; (c) Highway 3 from Potts Junction east to Salisbury Junction; and (d) the Andersen Air Force Base boundary from Salisbury Junction east to the coast.

2. All contiguous, coastal Government of Guam property from Anao Point to Companya Point including the Anao Conservation Reserve, lot numbers 7102, 7103, 7147 and the Lujuna portion of Lot Number A (the Asdonlucas portion of Lot Number A is excluded) (lot numbers from Government of Guam Land Registration Survey Plate).

3. The single private property inholdings at Janum Point.
2. Southern Guam.

Those portions including: (a) Naval Magazine; (b) Naval Reservation (Fena Valley Watershed); (c) the area above the 800-foot contour west of and abutting the Naval Magazine and the Naval Reservation; (d) the area abutting and between the Naval Magazine and Naval Reservation along the Maagas River, bounded on the east by a line beginning at the easternmost point of the Naval Magazine along the Maagas River and running southwest to the easternmost tip of the Naval Reservation south of the Tinechong River; and (e) the entire Bolanos Conservation Reserve, which is comprised of lot numbers 507, 508, and 509 (lot numbers from Government of Guam Land Registration Survey Plats).

Richard N. Smith,
Acting Director, Fish and Wildlife Service.

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