

Source of flooding	Location	#Depth in feet above ground. *Elevation in meters (MSL) ±Elevation in feet (NAVD)		Communities affected
		Existing	Modified	

Maps available for inspection at Carretera #2, Alcaldia de Bayamon, 4to piso Oficina de Ordenacion Territorial, Bayamon, Puerto Rico. Send comments to The Honorable Ramon Luis Rivera, Mayor of the Municipality of Bayamon, Carretera #2, Alcaldia de Bayamon, Bayamon, Puerto Rico 00731.

#### NORTH CAROLINA

##### Durham County (Unincorporated Areas)

The proposed, proposed modified Base (1% annual chance) Flood Elevations (BFEs), and the location of the local map repository for the unincorporated areas of Durham County have been provided on FEMA's Flood Hazard Mapping Web site at [http://www.fema.gov/fhm/st\\_hot.sht](http://www.fema.gov/fhm/st_hot.sht). Contact the FEMA Map Assistance Center toll free at 1-877-FEMA Map (877-336-2627) for further information or a copy of the BFEs.

#### NORTH CAROLINA

##### City of Durham, Durham County

The proposed, proposed modified Base (1% annual chance) Flood Elevations (BFEs), and the location of the local map repository for the City of Durham have been provided on FEMA's Flood Hazard Mapping Web site at [http://www.fema.gov/fhm/st\\_hot.sht](http://www.fema.gov/fhm/st_hot.sht). Contact the FEMA Map Assistance Center toll free at 1-877-FEMA Map (877-336-2627) for further information or a copy of the BFEs.

(Catalog of Federal Domestic Assistance No. 83.100, "Flood Insurance.")

Dated: May 26, 2004.

**Anthony S. Lowe,**

*Mitigation Division Director, Emergency Preparedness and Response Directorate.*

[FR Doc. 04-12371 Filed 6-1-04; 8:45 am]

BILLING CODE 9110-12-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AI25

#### Endangered and Threatened Wildlife and Plants; Determinations of Prudency of Critical Habitat Designation for Two Mammal and Four Bird Species in Guam and the Commonwealth of the Northern Mariana Islands; Designations of Critical Habitat for One Mammal and Two Bird Species in Guam and the Commonwealth of the Northern Mariana Islands

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

**ACTION:** Proposed rule; reopening of comment period, notice of availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service) announce the reopening of the public comment period for the proposed rule to designate critical habitat for the Mariana fruit bat and the Guam Micronesian kingfisher on Guam, and the Mariana crow on Guam and Rota. We have received a proposed natural resource management plan from Guam since the close of the comment period, and the comment period is reopened to allow additional

time for all interested parties to consider this information and submit written comments on the Guam proposal. Comments already submitted on the proposed rule need not be resubmitted as they already have been incorporated into the public record and will be fully considered in the final determination.

**DATES:** The comment period for this proposal now closes on July 19, 2004. Any comments received by the closing date will be considered in the final decision on this proposal.

**ADDRESSES:** Written comments and information should be submitted to the Acting Field Supervisor, U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, Room 3-122, P.O. Box 50088, Honolulu HI 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:** Gina Shultz, Assistant Field Supervisor, at the above address (telephone 808/792-9400; facsimile 808/792-9580).

#### SUPPLEMENTARY INFORMATION:

##### Background

On October 15, 2002, we proposed designating critical habitat on approximately 10,053 hectares (ha) (24,840 acres (ac)) in two units on the island of Guam for the Mariana fruit bat (*Pteropus mariannus mariannus*) and the Guam Micronesian kingfisher (*Halcyon cinnamomina cinnamomina*) (67 FR 63738). For the Mariana crow (*Corvus kubaryi*), we proposed designating critical habitat on approximately 9,325 ha (23,042 ac) in two units on the island of Guam and approximately 2,462 ha (6,084 ac) in one unit on the island of Rota in the

Commonwealth of the Northern Mariana Islands. On Guam, the boundaries of the proposed critical habitat units for the Mariana fruit bat and Guam Micronesian kingfisher are identical, and the boundaries of the proposed critical habitat for the Mariana crow are contained within these boundaries. On Rota, critical habitat is proposed only for the Mariana crow. For locations of these proposed units and additional information, please see the proposed rule (67 FR 63738).

The original comment period for the proposed rule closed on December 16, 2002. On December 5, 2002, we published a notice in the **Federal Register** announcing an extension of the public comment period to January 6, 2003, and the availability of the draft economic analysis for the proposed designation of critical habitat (67 FR 72407). On January 28, 2003, we published a notice to reopen the comment period until February 18, 2003, due to hardships caused by Super typhoon Pongsona on Guam and Rota (68 FR 4159). On May 30, 2003, the Government of Guam filed a motion to extend the court-ordered deadline for completing the critical habitat process to allow time to develop an alternative to critical habitat designation on Guam. On June 13, 2003, the Federal District Court for Guam extended the deadline for publication "indefinitely," and set a status conference for October 7, 2003. On June 23, 2003, the Plaintiffs filed a notice of appeal to the 9th Circuit from the District Court's June 13, 2003, order. On October 7, 2003, the District Court held a status conference in which the Government of Guam requested a continuance of one month. On October 16, 2003, the Guam District Court

denied the request for further continuance and ruled that it would take no further action while the case was on appeal. On January 7, 2004, the U.S. Court of Appeals for the Ninth Circuit dismissed the appeal and returned the case to the District Court.

### Public Comments Solicited

Since the close of the comment period, we have received new information in the form of a proposed natural resource management plan (copy available upon request) from the Government of Guam. The comment period is reopened to allow additional time for all interested parties to consider the information and submit written comments on the proposal. In particular, we are interested in comments addressing the extent to which the proposed Guam plan would provide conservation benefits for the proposed critical habitat area, the comparative costs, or other impacts of Guam's proposal and the proposed critical habitat, and whether or not Guam's proposal would provide a basis for excluding areas from final critical habitat designation pursuant to sections 4(b)(2) or 3(5)(A) of the Endangered Species Act.

We will accept written comments and information received during this reopened comment period. If you wish to comment, you may send or hand-deliver written comments and information to the Acting Field Supervisor (*see ADDRESSES* section).

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 rule are available on the Internet at <http://pacificislands.fws.gov> or by request from the Acting Field Supervisor at the address above (*see ADDRESSES* section), by phone at 808/792-9400, or by facsimile at 808/792-9581.

### Author

The primary author of this notice is Fred Amidon, U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (*see ADDRESSES* section).

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

Dated: May 25, 2004.

**David P. Smith,**

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

[FR Doc. 04-12432 Filed 6-1-04; 8:45 am]

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 21

**RIN 1018-AI92**

#### Migratory Bird Permits; Take of Migratory Birds by Department of Defense

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

**ACTION:** Proposed rule.

**SUMMARY:** The Migratory Bird Treaty Act (MBTA) prohibits the taking, killing, or possessing of migratory birds unless permitted by regulations promulgated by the Secretary of the Interior. While some courts have held that the MBTA does not apply to Federal agencies, in July 2000, the United States Court of Appeals for the District of Columbia Circuit ruled that the prohibitions of the MBTA do apply to Federal agencies, and that a Federal agency's taking and killing of migratory birds without a permit violated the MBTA. On March 13, 2002, the United States District Court for the District of Columbia ruled that military training exercises of the Department of the Navy that incidentally take migratory birds without a permit violate the MBTA.

On December 2, 2002, the President signed the 2003 National Defense Authorization Act. Section 315 of the Authorization Act provides that, not later than one year after its enactment, the Secretary of the Interior (Secretary) shall exercise her authority under section 704(a) of the MBTA to prescribe regulations to exempt the Armed Forces for the incidental taking of migratory birds during military readiness activities authorized by the Secretary of Defense or the Secretary of the military department concerned. The Authorization Act further requires the Secretary to promulgate such regulations with the concurrence of the Secretary of Defense. This proposed rule has been developed in coordination and cooperation with the Department of Defense and the Secretary of Defense concurs with the requirements herein.

Current regulations authorize permits for take of migratory birds for activities such as scientific research, education, and depredation control. However,

these regulations do not expressly address the issuance of permits for incidental take. As directed by section 315 of the Authorization Act, we are proposing this rule to authorize such take, with limitations, that result from Department of Defense military readiness activities. If the Department of Defense determines that a proposed or an ongoing military readiness activity may result in a significant adverse effect on the sustainability of a population of a migratory bird species of concern, then they must confer and cooperate with the U.S. Fish and Wildlife Service (Service) to develop appropriate and reasonable-conservation measures to minimize or mitigate identified significant adverse effects. The Secretary of the Interior, or her designee, will retain the power to withdraw or suspend the authorization for particular activities in appropriate circumstances.

We invite your comments on this proposed rule.

**DATES:** We will accept comments on this proposed rule until August 2, 2004.

**ADDRESSES:** You may mail, fax, or deliver comments to the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 4107, Arlington, Virginia 22203-1610, fax (703) 358-2217. Comments can also be sent on-line at [DODMBTARULE@fws.gov](mailto:DODMBTARULE@fws.gov). The proposed rule and other related documents can be downloaded at <http://migratorybirds.fws.gov>. The complete file for this proposed rule is available for inspection, by appointment, during normal business hours at the Division of Migratory Bird Management, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia 22203, telephone (703) 358-1714.

**FOR FURTHER INFORMATION CONTACT:** Brian Millsap, Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, telephone (703) 358-1714.

#### SUPPLEMENTARY INFORMATION:

##### Background

Migratory birds are of great ecological and economic value and are an important international resource. They are a key ecological component of the environment, and they also provide immense enjoyment to millions of Americans who study, watch, feed, or hunt them. Recognizing their importance, the United States has been an active participant in the internationally coordinated management and conservation of migratory birds. The Migratory Bird