

land uses and activities, the DEA estimates the total direct costs associated with implementation of section 7 for the plants would range from \$109,070 to \$804,750.

Subsequently, based on a review of public comments and information from the Service regarding the intended removal or reduction of critical habitat units, the Addendum estimates the revised total direct costs to be approximately \$54,470 to \$269,150. When considered in the context of the island economy, these revised costs represent, in the worst case, approximately 0.2 percent of the total personal income of Molokai in 2000.

In addition, Chapter VI, Section 5.b. of the DEA addresses the limited economic base of Molokai by examining potential impacts on small entities (small businesses, small organizations, and small governmental jurisdictions) under the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Fairness Act of 1996). The DEA concludes that a significant economic impact on a substantial number of small entities will not result from the critical habitat designation. After considering the information provided in public comments and the Service's intended reduction or removal of critical habitat units, the Addendum does not revise this conclusion.

(18) *Comment:* A commenter stated that the Service must analyze all economic impacts of critical habitat designation, not merely those impacts that are a "but for" result of the critical habitat designation. The commenter further stated that the DEA does not adequately analyze the full scope of economic impacts, but focuses primarily on section 7(a)(2) of the Act, which requires consultation with the Service when Federal permits, funding, or other Federal action is required, and says that other sections of the Act are outside the scope of this economic analysis. The commenter believes that the critical habitat designations will have a significant economic effect extending far beyond the draft's narrow concept of a Federal nexus.

Our Response: The Service has authority under section 7 of the Act to consult on activities on land owned by individuals, organizations, States, or local and tribal governments only if the activities on the land have a Federal nexus. A Federal nexus occurs when the activities require a Federal permit, license, or other authorization, or involve Federal funding. The Service does not have jurisdiction under section 7 to consult on activities occurring on non-Federal lands when the activities

are not federally funded, authorized, or carried out. In addition, consultation is not required for activities that are not likely to affect listed species or their critical habitat.

The economic analysis considered the economic impacts of section 7 consultations related to critical habitat even if they are attributable co-extensively to the listed status of the species. In addition, the economic analysis examined any indirect costs of critical habitat designation such as where critical habitat triggers the applicability of a State or local statute.

However, where it is the listing of a species, rather than the designation of critical habitat, that prompts action at the State or local level, the impacts are not attributable to critical habitat designation and are appropriately not considered in the economic analysis of critical habitat designation. For example, there are no take prohibitions associated with critical habitat. Take prohibitions under Hawaii law are purely attributable to a listing decision and do not co-extensively occur because of critical habitat designations. Thus, the economic analysis did not include an analysis of the impact of these other sections of the Act.

(19) *Comment:* A commenter stated that the DEA fails to recognize all the connections between Federal and State law. For example, if the Federal government approves eligibility for flood insurance, flood plain development programs shall become subject to consultations under the Act. Another comment stated that while the Service has stated that critical habitat affects only activities that require Federal permits or funding, and does not require landowners to carry out special management or restrict use of their land, the DEA fails to address the breadth of Federal activities that affect private property in Hawaii and the extent to which private landowners are required to obtain Federal approval before they can use their property. The commenter elaborated that these requirements also extend to State agencies requiring Federal funds or approvals.

Our Response: The analysis in the DEA, as revised by the Addendum, is based on a review of all "reasonably foreseeable" projects, land uses, and activities that may be directly affected by the implementation of section 7 for the species in question. "Reasonably foreseeable" projects, land uses, and activities were broadly defined in the analysis as those that are: (1) Currently authorized, permitted, or funded; (2) proposed in plans currently available to the public; or (3) projected or likely to

occur within the next ten years, based on (a) recent economic or land-use trends, development patterns, evolving technologies, competitive advantages, etc., and (b) limits imposed by land-use controls, access, terrain, infrastructure, and other restrictions on development. After determining the "reasonably foreseeable" projects, land uses, and activities that could affect the physical and biological features of the proposed critical habitat units, the next step in the analysis was to determine Federal involvement. Thus, while the economic analysis did not evaluate all possible activities with Federal nexus, it was focused on the most relevant subset of these activities—those that are "reasonably foreseeable." The results of this analysis are presented in Table VI-3 in the DEA and Table Add-2 in the Addendum.

More specifically, the critical habitat units as modified overlap slightly with areas identified by the Federal Emergency Management Agency as within the flood zone. No residential or commercial development is located or planned within this area. Thus, no consultations for eligibility for flood insurance or flood plain development programs are anticipated within the next ten years.

(20) *Comment:* One commenter stated that several economic impacts are acknowledged in the DEA, but their impacts are not quantified in summary tables. These include: (1) The value of hunting estimated at \$1,430,000; (2) economic loss of up to \$675,000,000 if the State places critical habitat in the Protective Subzone of the Conservation District; and (3) indirect costs beyond section 7 costs.

Our Response: (1) The DEA does not estimate the value of hunting on Molokai at \$1,430,000. Instead, the DEA reported a number of figures that act as indicators of the value of hunting. Specifically, the DEA reported that hunting on Molokai generates approximately \$340,000 in direct sales, \$670,000 in direct and indirect sales, \$280,000 in income, and \$140,000 in surplus value. These estimates reflect separate methods to illustrate the total value of hunting and are not intended to be added together. Moreover, it should be noted that some of these estimates were updated in Section 5 of the Addendum to incorporate data from the Service's 2001 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation. Specifically, the revised estimates indicate that hunting generates approximately \$317,000 in direct sales, \$563,000 in total direct and indirect sales, and \$185,000 in income.