

essential for the conservation of the species. Nevertheless, we are required to designate those areas we know to be critical habitat, using the best information available to us.

Within the geographic areas occupied by the species, we will designate only areas currently known to be essential. Essential areas should already have one or more of the features and habitat characteristics that are necessary to sustain the species. We will not speculate about what areas might be found to be essential if better information became available, or what areas may become essential over time. If the information available at the time of designation does not show that an area provides essential life cycle needs of the species, then the area should not be included in the critical habitat designation.

Our regulations state that "The Secretary shall designate as critical habitat areas outside the geographical area presently occupied by a species only when a designation limited to its present range would be inadequate to ensure the conservation of the species" (50 CFR 424.12(e)). Accordingly, when the best available scientific and commercial data do not demonstrate that the conservation needs of the species require designation of critical habitat outside of occupied areas, we will not designate critical habitat in areas outside the geographic area occupied by the species.

Our Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), provides criteria, establishes procedures, and provides guidance to ensure that our decisions represent the best scientific and commercial data available. It requires our biologists, to the extent consistent with the Act and with the use of the best scientific and commercial data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information should be the listing package for the species. Additional information may be obtained from recovery plans, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, and biological assessments or other unpublished materials.

Habitat is often dynamic, and populations may move from one area to another over time. We recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be

necessary for the recovery of the species. For these reasons, all should understand that critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery. Areas outside the critical habitat designation will continue to be subject to conservation actions that may be implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the Act's 7(a)(2) jeopardy standard and section 9 prohibitions, as determined on the basis of the best available information at the time of the action. We specifically anticipate that federally funded or assisted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

A. Prudence

Designation of critical habitat is not prudent when the species is threatened by taking or other human activity, and identification of critical habitat can be expected to increase the degree of such threat to the species (50 CFR 424.12(a)(1)).

Due to low numbers of individuals and/or populations and their inherent immobility, the 51 plants may be vulnerable to unrestricted collection, vandalism, or disturbance. We examined the evidence currently available for each of these taxa and found specific evidence of vandalism, disturbance, and/or the threat of unrestricted collection for one species of *Pritchardia*, the native palm, on Molokai. At the time of listing, we determined that designation of critical habitat was not prudent for *Pritchardia munroi* because it would increase the degree of threat from vandalism or collecting, and would provide no benefit (57 FR 46325). We received information on the commercial trade in palms conducted through the Internet (Grant Canterbury, USFWS, in litt. 2000). Several nurseries advertise and sell seedlings and young plants, including 13 species of Hawaiian *Pritchardia*. Seven of these species are federally protected, including *Pritchardia munroi*. In light of this information, we believe that designation of critical habitat would likely increase the threat from vandalism or collection

to this species of *Pritchardia* on Molokai. First, it is easy to identify, and second, it may be attractive to collectors of rare palms either for their personal use or to trade or sell for personal gain (Johnson 1996). We believe that the evidence shows that this species of palm may be attractive to such collectors. Although the final listing rule and proposed critical habitat do not list vandalism or overcollection as a threats, in light of documented vandalism and overcollection events on species in the same genus on Kauai, we believe that *Pritchardia munroi* is vulnerable to the same types of threats because of the similarity in appearance of the species.

In addition, we believe that designation would not provide significant benefits that would outweigh these increased risks. First, *Pritchardia munroi* does not occur on Federal land. It is in a remote location, not accessible to standard vehicles. It is, therefore, unlikely that the land on which it is found will be developed. Since there does not appear to be any actions in the future that would involve a Federal agency, designation of critical habitat would not provide any additional protection to the species that it does not already have through listing alone. If however in the future any Federal involvement did occur, such as through the permitting process or funding by the U.S. Department of Agriculture, the U.S. Department of Interior, the Corps through section 404 of the Clean Water Act, the U.S. Federal Department of Housing and Urban Development or the Federal Highway Administration, the actions would be subject to consultation under section 7 of the Act.

We acknowledge that critical habitat designation, in some situations, provides additional value to the species, (e.g., by identifying areas important for conservation and calling attention to those areas in need of special protection). However, for this species, we believe that the benefits of designating critical habitat do not outweigh the potential increased threats from vandalism or collection. Given all of the above considerations, we determine that designation of critical habitat for *Pritchardia munroi* is not prudent.

We made final prudent findings for the following 29 multi-island species in other published final critical habitat rules: *Adenophorus perians*, *Alectryon macrococcus*, *Bonamia menziesii*, *Brighamia rockii*, *Centaurium sebaeoides*, *Ctenitis squamigera*, *Cyanea grimesiana ssp. grimesiana*, *Cyperus trachysanthos*, *Diellia erecta*, *Diplazium molokaiense*, *Flueggea neowawraea*,