

been updated to address management needs of these species. We look forward to working with the Navy in developing management for these areas that is compatible with species recovery.

We have removed some portions of the units on Navy lands, based on additional information received during the comment periods and visits to the base. We determined these areas to be nonessential because of the lack of primary constituent elements or because there are other places for these species that have more primary constituent elements and/or are less degraded. See the "Summary of Changes from the Proposed Rule" section for the justification for each unit's changes.

Issue 4: Species-Specific Biological Comments

(25) *Comment*: There are only three occurrences of the identified species on Damon Estate's land, all three located in the very back of Moanalua Valley, nearly 1.5 miles from the makai (directional term in the Hawaiian language that means towards the ocean) boundary of the proposed critical habitat designation. The landowner does not believe that the Service has established that these reported occurrences, some of them decades old, justify the designation of nearly 1,500 acres, much of which is highly altered from its original native vegetation.

Our Response: This area is currently occupied by eight species (*Chamaesyce rockii*, *Cyanea acuminata*, *Cyanea humboldtiana*, *Gardenia mannii*, *Lobelia oahuensis*, *Tetraplasandra gymnocarpa*, *Trematolobelia singularis*, and *Viola oahuensis*) and contains habitat essential to the conservation of seven species (*Cyanea crispa*, *Cyanea humboldtiana*, *Lobelia oahuensis*, *Sanicula purpurea*, *Tetraplasandra gymnocarpa*, *Trematolobelia singularis*, and *Viola oahuensis*). Therefore, we could not remove this area from final critical habitat designation. Although this area is highly altered, information provided by botanists both in compiling the proposed rule and during the public periods indicates that the area contains the habitat elements essential for the conservation of the above mentioned plant species. This area is located within the following critical habitat units: Oahu 20—*Cyanea crispa*—b, Oahu 20—*Cyanea humboldtiana*—d, Oahu 20—*Lobelia oahuensis*—a, Oahu 20—*Sanicula purpurea*—a, Oahu 20—*Tetraplasandra gymnocarpa*—b, Oahu 20—*Trematolobelia singularis*—b, and Oahu 20—*Viola oahuensis*—a.

(26) *Comment*: Two commenters stated that failure to designate critical habitat for *Cyrtandra crenata*, as long as

this species remains on the endangered species list, denies it the habitat protection that Congress intended. The Service's conclusion in 67 FR 37155 that *Cyrtandra crenata* would not benefit from critical habitat designation is based on a faulty interpretation of the Endangered Species Act to designate critical habitat "to the maximum extent prudent." Another commenter added that given the vast areas on Oahu yet to be surveyed or inventoried, there is no valid basis for the Service to assume that *Cyrtandra crenata* is extinct. The mere fact that this plant has not been seen on Oahu recently does not justify the Service's refusal to protect its critical habitat, as it is common for field biologists to rediscover plant species that have not been seen for decades. The recent discovery of *Asplenium fragile* var. *insulare* (on Maui) and *Phyllostegia waimeae* (on Kauai) are cases in point. Several other commenters stated that the final rule should extend critical habitat protection to *Cyrtandra crenata*.

Our Response: At the present time, we do not believe it would be beneficial to designate critical habitat for this species. It was last observed in the wild in 1947, and we do not know of any genetic material in cultivation. In addition, we are unable to identify the physical and biological features essential for the conservation of this species or any exact location in the wild essential to the conservation of this species. Until the species is rediscovered, we are unable to identify habitat that is essential to its conservation due to lack of information in the historical record. Therefore, no change is made to our not prudent determination here. If this species is rediscovered, we may propose critical habitat for the species at that time.

(27) *Comment*: Several commenters stated that the final rule should extend critical habitat protection to the loulou palm, *Pritchardia kaalae*. As recently as 1999, the Service found that proposed live-fire training at Makua Military Reservation threatened *Pritchardia kaalae* with extinction. This species needs critical habitat protection from military and other threats if it is to have any chance of increasing its numbers and range from the six populations remaining in the wild. In contrast, the Service's claim that designation, which would identify primarily unoccupied habitat and increase threats to the species, is pure speculation.

Our Response: Since the listings of the three *Pritchardia* species on Kauai and Niihau as endangered, and prior to our proposed rules for the designation of critical habitat, we received information verifying vandalism and

collection threats to *Pritchardia* throughout the Hawaiian Islands. This information is included in the proposed rules. No additional information was provided during the comment periods demonstrating that the threats to the *Pritchardia* species on any Hawaiian Island from vandalism or collection would not be increased if critical habitat was designated. We still believe that the benefits of designating critical habitat do not outweigh the potential threats from vandalism and collection of any species of *Pritchardia*. Makua Military Reservation has been removed from critical habitat designation under 4(b)(2) of the Act because the benefits of excluding the area outweigh the benefits of including the area in the final designation (See "Analysis of Impacts Under Section 4(b)(2): Other Impacts").

(28) *Comment*: In the **Federal Register** notice of May 28, 2002 (FR 37108), Table 1 indicates that it includes 101 plants. In fact, the table appears to include 102 plants. Should *Colubrina squamigera* be included? It is neither a listed species nor a candidate species.

Our Response: Table 1 should contain 101 plant species from the island of Oahu listed under the Act for which critical habitat designations are being proposed. The inclusion of *Colubrina squamigera* was the result of a typographical error. No such plant species is historically or currently known.

(29) *Comment*: Coastal habitats may not be well represented in proposed critical habitat. For example, there are few sand dune areas with seasonal pools included in the critical habitat proposal, which will limit the ability to establish multiple populations of several species.

Our Response: The final critical habitat designations published for all Hawaiian Islands except the island of Hawaii, the critical habitat proposed for the island of Hawaii, and habitat located within adequately managed lands provide the habitat necessary for the conservation of 8 to 10 populations of each of the coastal plant species in this rule. Although habitat outside of these areas may be important for the recovery of one or more of these species, it is not essential to their conservation. The best existing habitat for 8 to 10 populations of each of the coastal plant species has been captured in the final critical habitat designation.

(30) *Comment*: One peer reviewer proposes expanding the critical habitat designation to include more (or all) of the conservation district lands in the southeastern Koolau Mountains for the benefit of the southern Koolau endemic species, *Cyanea grimesiana*, *Lipochaeta lobata*, and *Trematolobelia singularis*.