

as it becomes available (See 16 U.S.C. 1532(5)(B); 50 CFR 424.13(f)).

Due to low numbers of individuals and/or populations and their inherent immobility, the other 100 plant species could be vulnerable to unrestricted collection, vandalism, or disturbance. We examined the evidence currently available for each of these species and found specific evidence of vandalism, disturbance, and/or the threat of unrestricted collection for one species of *Pritchardia*, the native palm. At the time of listing, we determined that designation of critical habitat was not prudent for *Pritchardia kaalae* because it would increase the degree of threat from vandalism or collecting and would provide no benefit (61 FR 53108). Since then, we have received information on the commercial trade in palms conducted through the Internet (Grant Canterbury, Service, *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 kaalae*. 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 Oahu. These plants are easy to identify, and they are 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 *Pritchardia kaalae* may be attractive to such collectors. The final listing rule for this species contained only general information on its distribution, but the publication of precise maps and descriptions of critical habitat in the **Federal Register** would make *Pritchardia kaalae* more vulnerable to incidents of vandalism or collection and, therefore, contribute to its decline and make recovery more difficult (61 FR 53089).

For *Pritchardia kaalae*, 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 kaalae* is not prudent.

In the final rule designating critical habitat for plants on Lanai, published on January 9, 2003 (68 FR 1220), we explained why we believe that critical habitat was prudent for the following 17 multi-island species that also occur on Oahu: *Adenophorus periers*, *Bonamia menziesii*, *Cenchrus agrimonoides*, *Centaurium sebaeoides*, *Ctenitis squamigera*, *Cyanea grimesiana* ssp. *grimesiana*, *Cyperus trachysanthos*,

Diellia erecta, *Diplazium molokaiense*, *Hesperomannia arborescens*, *Hibiscus brackenridgei*, *Isodendron pyrifolium*, *Sesbania tomentosa*, *Silene lanceolata*, *Spermolepis hawaiiensis*, *Tetramolopium lepidotum* ssp. *lepidotum*, and *Vigna o-wahuensis*. In the final rule designating critical habitat for plants on Kauai and Niihau, published on February 27, 2003 (68 FR 9116), we explained why that critical habitat was prudent for the following 16 multi-island species that are also found on Oahu: *Alectryon macrococcus*, *Euphorbia haelealeana*, *Flueggea neowawraea*, *Gouania meyenii*, *Isodendron laurifolium*, *Isodendron longifolium*, *Lobelia niihauensis*, *Lysimachia filifolia*, *Mariscus pennatifolius*, *Melicope pallida*, *Peucedanum sandwicense*, *Phlegmariurus nutans*, *Plantago princeps*, *Platanthera holochila*, *Schiedea nuttallii*, and *Solanum sandwicense*. In the final rule designating critical habitat for plants on Molokai, published on March 19, 2003 (68 FR 12982), we indicated why that critical habitat was prudent for the following four multi-island species that are also found on Oahu: *Eugenia koolauensis*, *Marsilea villosa*, *Phyllostegia mollis*, and *Pteris lidgatei*. In the final rule designating critical habitat for plants on Maui and Kahoolawe, published on May 14, 2003 (68 FR 25934) we indicated why we believe that critical habitat was prudent for the following eight multi-island species that are also found on Oahu: *Colubrina oppositifolia*, *Gouania vitifolia*, *Hedyotis coriacea*, *Hesperomannia arbuscula*, *Nototrichium humile*, *Phyllostegia parviflora*, *Sanicula purpurea*, and *Schiedea hookeri*.

We examined the potential threats and benefits for the other 54 taxa and have not, at this time, found specific evidence of taking, vandalism, collection, or trade of these taxa or of similarly situated species. Consequently, while we remain concerned that these activities could potentially threaten these 54 plant species in the future, consistent with applicable regulations (50 CFR 424.12(a)(1)(i)) and the court's discussion of these regulations, we do not find that any of these species are currently threatened by taking or other human activity. None of these threats would be exacerbated by the designation of critical habitat.

In the absence of finding that critical habitat would increase threats to a species, if there are any benefits to critical habitat designation, then a prudent finding is warranted. The

potential benefits of designation of critical habitat for these 54 species include: (1) Triggering section 7 consultation in new areas where it would not otherwise occur because, for example, it is or has become unoccupied or the occupancy is in question; (2) focusing conservation activities on the most essential areas; (3) providing educational benefits to State or county governments or private entities; and 4) preventing people from causing inadvertent harm to the species.

In the case of these 54 species, there would be some benefits to critical habitat. The primary regulatory effect of critical habitat is the section 7 requirement that Federal agencies refrain from taking any action that is likely to destroy or adversely affect critical habitat. Thirty-seven of these species are reported on or near Federal lands (see Table 1), where actions are subject to section 7 consultation. Although a majority of the species considered in this rule are located exclusively on non-Federal lands with limited Federal activities, there could be Federal actions affecting these lands in the future. While a critical habitat designation for habitat currently occupied by these species would not likely change the section 7 consultation outcome, since an action that destroys or adversely modifies such critical habitat would also be likely to result in jeopardy to the species, there may be instances where section 7 consultation would be triggered only if critical habitat were designated. There would also be some educational or informational benefits to the designation of critical habitat. Benefits of designation would include the notification of land owners, land managers, and the general public of the importance of protecting the habitat of these species and dissemination of information regarding their essential habitat requirements.

Therefore, designation of critical habitat is prudent for these 54 plant species: *Abutilon sandwicense*, *Alsinidendron obovatum*, *Alsinidendron trinerve*, *Chamaesyce celastroides* var. *kaenana*, *Chamaesyce deppeana*, *Chamaesyce herbstii*, *Chamaesyce kuwaleana*, *Chamaesyce rockii*, *Cyanea acuminata*, *Cyanea crispa*, *Cyanea grimesiana* ssp. *obatae*, *Cyanea humboltiana*, *Cyanea koolauensis*, *Cyanea longiflora*, *Cyanea pinnatifida*, *Cyanea st.-johnii*, *Cyanea superba*, *Cyanea truncata*, *Cyrtandra dentata*, *Cyrtandra polyantha*, *Cyrtandra subumbellata*, *Cyrtandra viridiflora*, *Delissea subcordata*, *Diellia falcata*, *Diellia unisora*, *Dubautia herbstobatae*, *Eragrostis fosbergii*,